PROTECTING THE STRANGER: THE ORIGINS OF US IMMIGRATION REGULATION IN NINETEENTH-CENTURY NEW YORK

by

BRENDAN P. O'MALLEY

A dissertation submitted to the Graduate Faculty in History in partial fulfillment of the requirements for the degree of Doctor of Philosophy, The City University of New York

2015

© 2015
BRENDAN P. O'MALLEY
All Rights Reserved

This manuscript has been read and accepted for the
Graduate Faculty in History in satisfaction of the
dissertation requirement for the degree of Doctor of Philosophy

DAVID NASAW

_____	_____
Date	Chair of the Examining Committee

HELENA ROSENBLATT

_____	_____
Date	Executive Officer

THOMAS KESSNER

GERALD MARKOWITZ

ANNA O. LAW

JOHN TORPEY

Supervisory Committee

THE CITY UNIVERSITY OF NEW YORK

Abstract

PROTECTING THE STRANGER: THE ORIGINS OF US IMMIGRATION REGULATION IN NINETEENTH-CENTURY NEW YORK

by

BRENDAN P. O'MALLEY

From 1847 to 1890, a state authority—not a federal one—oversaw the entry of most immigrants arriving in the United States. The New York State Board of the Commissioners of Emigration supervised the landing of over eight million newcomers in nation's busiest entry point, the Port of New York, during the second half of the nineteenth century. Most were processed at the Board's Castle Garden Emigrant Depot in Battery Park, which opened in 1855. This study demonstrates why and how New York State developed a complex regulatory regime well before the federalization of immigration authority in 1882.

The establishment of this state immigration agency marked a watershed in governmental practices surrounding immigrants, but one that had little to do with exclusion. Many historians of immigration regulation have depicted the development of exclusionary capacities as the hallmark of modern regulation. The Emigration Board, however, points to other possibilities. It developed many of the administrative practices and capacities that would be taken up by the succeeding federal regime, but at the same time, it operated upon a very different vision of government's role vis a vis immigration: not one of restriction, but of aid and support. The Board sought to alleviate anxieties that immigrants would become public burdens, it rationalized the system of immigrant transportation into the interior, and it successfully combated the rampant exploitation of newcomers in the Port of New York. By shedding light on this more inclusive model of

immigration regulation from the American past, this study destabilizes the long-held idea that restriction served as the foundation upon which modern immigration control in the US was built.

CONTENTS

INTRODUCTION	1
CHAPTER ONE: CREATING THE COMMISSIONERS	15
CHAPTER TWO: THE STRUGGLE FOR LEGITIMACY	50
CHAPTER THREE: CASTLE GARDEN AND CONSOLIDATION	110
CHAPTER FOUR: THE COMMISSIONERS' CIVIL WAR	157
CHAPTER FIVE: THE DISASTROUS DECADE	197
EPILOGUE	248
BIBLIOGRAPHY	270

INTRODUCTION

What are the origins of government authority over immigration in the United States? When and how did "immigrants" become an administrative category singled out by government officials for special consideration? What issues were early immigration policies intended to address? To answer these questions, we first must grapple with a definition of "regulation." Many twentieth-century historical studies of immigration regulation equated regulation with restriction, thereby presenting a straightforward narrative of relatively free and open immigration before 1882, when Congress enacted both federal control

Over the past twenty-five years, historical scholarship has dismantled the long-accepted belief that antebellum Americans took a *laissez-faire* approach to immigration. Some scholars had labeled the era before the 1882 as one of an "open door" since Congress federalized immigration regulation that year and passed the Chinese Exclusion Act, implying that no meaningful regulation existed before that time.[1] Legal historians like Gerald L. Neuman and William J. Novak have shown that robust local and state-level mechanisms exercised considerable control over newcomers. Almost all seaboard states had quarantine laws that delayed the landing of passengers from vessels on which contagious disease was present, while some excluded convicts, paupers, and free blacks. New York and Massachusetts, two of the biggest receivers of immigrants, had systems that required shippers to post bonds or pay a fee in lieu of a bond for each newcomer. Bonding was not exclusionary in the sense of forbidding entry to a specific class of

[1] For example, political scientist Michael C. LeMay still labels the period between 1820 and 1880 the "Open-Door Cycle." See his study *Guarding the Gates: Immigration and National Security* (Westport, CT: Praeger Security International, 2006), pp. 33-66.

people outright, but it nonetheless shaped the flow of immigration by penalizing shippers who introduced individuals who became public charges. The bonding system treated passengers as little more than articles of commerce, not as human beings who could be trusted to ensure their own self-support.[2]

The recovery of what Neuman has dubbed "The Lost Century of American Immigration Law," from 1776 to 1875, has become a veritable cottage industry since the publication of his article of that name in 1993. This effusion of scholarship has recovered many state and local practices that policed entry and regulated aliens once inside state or municipal borders, developing a much more nuanced understanding of immigration regulation as it existed before 1882. In addition, this research has yielded numerous insights into antebellum assumptions about citizenship and the formation of the American state. Government practices surrounding immigration were a key component in what William Novak has called a transition from "[n]ineteenth-century traditions of local citizenship and self-governance" to the contemporary "liberal state" that features "a modern approach to positive statecraft, individual rights, and social welfare."[3] Curiously, scholars interested in the development of the American state only recently have begun to pay attention to pre-1882 immigration regulation.

---

[2] For extensive elaborations of all of pre-federal immigration laws and regulatory mechanisms in the U.S., see Gerald L. Neuman, "The Lost Century of American Immigration Law (1776-1875)," *Columbia Law Review,* Vol. 93, No. 8 (Dec. 1993), pp. 1833-1901; and Anna O. Law, "Lunatics, Idiots, Paupers, and Negro Seamen—Immigration Federalism and the Early American State," *Studies in American Political Development,* Vol. 28 (October 2014), Table I: Varieties of State and Federal Restriction on Migration, p. 8. On maritime quarantine laws as they applied to immigrants, see William J. Novak, *The People's Welfare: Law & Regulation in Nineteenth-Century America* (Chapel Hill, NC: University of North Carolina Press, 1996), pp. 204-211. Shippers also used bonds to facilitate certain transactions with inanimate cargo, such as with customs bonds for goods on which a duty had yet to be paid.

[3] William J. Novak, "The Legal Origins of the Modern American State," in Austin Serat, Bryant G. Garth & Robert A. Kagan, eds., *Looking Back at Law's Century* (Ithaca, NY: Cornell University Press, 2002), p. 249.

Political scientist Aristide Zolberg's *A Nation by Design* (2006), a masterful synthesis of much of the revisionist literature, argues that American immigration policy and the machinery of state that evolved around it was exclusionary from the beginning. Zolberg portrays even the federal Steerage Act of 1819, long seen as a humanitarian measure to improve steerage conditions, as the first example of "remote control," pushing restriction offshore. He convincingly argues that legislators behind the bill attempted to raise the cost of passage by imposing space requirements on vessels carrying steerage passengers, thereby making fares affordable only to Europeans of the middling skilled classes.[4] I do not contest that restrictionist motivations existed within such measures instituted on the federal, state, and local levels during the early republic and antebellum period, but they were not the only considerations. While I in no way wish to denigrate the value of the this scholarship, I do think its focus on exclusion may have distorted our view of early American governmental practices surrounding immigration, placing the emphasis on the exceptions rather than the rule, especially in the case of New York's regulatory regime. New York's immigration authorities unquestionably were more inclusive and supportive of immigrants than those of other states, but developments in New York must be given special weight since it was the portal through which the vast majority of immigrants entered the United States in the century between 1820 and 1920.

Even in Massachusetts, the most restrictive state regime toward European immigrants in the antebellum era, the cases of denied entry and deportation were relatively rare. The following example provides a sense of proportion. Massachusetts's state immigration authority commenced operation in May 1851, and in its first annual

[4] Aristide Zolberg, *A Nation by Design: Immigration Policy and the Fashioning of America* (New York: Russell Sage Foundation, 2006), pp. 110-113.

report at the end of that year, it noted that 6,675 aliens had entered the state under the auspices of the railroad companies. Of that number, 62 were not permitted to land at Fall River (the railroad company brought passengers from New York to the rail terminal there by steamboat), and 112 other individuals entering from other points were immediately ticketed back from whence they came. That these exclusionary capacities existed and were practiced before federalization in 1882 is indeed significant, but are they the sum total of government power over immigration at that time? Does focusing on the 174 cases of exclusion (less than three percent of the total) tells us all there is to know about how government intervened in the lives of newcomers in the middle decades of the nineteenth century? To what extent did authorities interact with the 6,450 "supposed to be able to take care of themselves" after they entered? Did any government practices develop around that group? [5]

As the following study will reveal, exclusion does not tell the whole story of state authority over immigration in the antebellum through Reconstruction eras. "Protecting the Stranger" is an examination of the New York State Board of the Commissioners of Emigration (hereafter the "Emigration Board" or "Board") that offers a window into the largely unexplored transition from local to federal immigration regulation during its years of operation, from 1847 to 1890. This state authority's story presents an important counterbalance to Zolberg and others' single-minded focus on exclusion.[6] The

[5] Massachusetts State Senate, *Annual Report of the Commissioners of Alien Passengers and Foreign Paupers,* January 1852, pp. 12-14. This data was brought to my attention in Hidetaka Hirota's "Nativism, Citizenship, and the Deportation of Paupers," (Ph.D. diss., Boston College, 2012), p. 122.

[6] Some recent significant contributions in this body of literature include Law, "Lunatics, Idiots, Paupers, and Negro Seamen," pp. 1-22; Hidetaka Hirota, "The Moment of Transition: State Officials, the Federal Government, and the Formation of American Immigration Policy," *Journal of American History,* Vol. 99, No. 4 (March 2013), pp. 1092-1108; Kerry Abrams, "The Hidden Dimension of Nineteenth-Century Immigration Law," *Vanderbilt Law Review,* Vol. 65, No. 5 (2009), pp. 1353-1418. Abrams makes a similar

establishment of the Emigration Board marked a watershed in governmental practices surrounding immigrants, but not one that "further institutionalized immigrant exclusion," as one historian recently claimed.[7] While the new agency retained some of the exclusionary practices of the locally administered regime that preceded it, the Board devoted far more of its resources to providing shelter and food for the indigent and medical treatment for the sick, to facilitating newcomers' travel out of the city, and to protecting immigrants from exploitation (admittedly, it did a poor job of the last until the Castle Garden Emigrant Depot opened in 1855). Indeed, one scholar has deemed the Board's regime primarily a "miniature welfare state."[8] The majority of the commissioners who comprised the Board were more concerned with shielding individuals from abuse and providing them with aid on their pathway to economic independence and citizenship than with keeping them out in the first place.

The revisionist literature's focus on exclusion mostly occludes an exceedingly useful frame of analysis: political economy. Legislators and government officials did not shape regulations in a vacuum. As demonstrated in the following study, those who organized and profited from the immigrant trade had great influence over the drafting of pertinent laws and regulations. The formal organization of the carriage of "free" steerage passengers began in the 1820s as a disorderly and irregular enterprise, and one that was still tainted by associations with the slave and indentured servant trades. In the 1840s, steerage had become a highly profitable industry dominated by some of the most

---

point, noting, "Most histories of immigration law are histories of restriction." See Abrams, "The Hidden Dimension of Nineteenth-Century Immigration Law," p. 1353.

[7] Hirota, "The Moment of Transition," p. 1095. I would argue that Hirota's study of the Massachusetts regulatory regime, which was far more exclusionary, may have influenced his interpretation of the one in New York.

[8] Benjamin J. Klebaner, "State and Local Regulation of Immigration in the United States before 1882," *International Review of Social History,* Vol. 3 (1958), p. 276.

respected and influential merchants in the nation's largest city. By 1855, New York State's immigration authority could claim, "Emigration employs, and profitably rewards, a large portion of our mercantile marine. The receipts from passage money exceed the amount for freights on all exports of the United States."[9] Nonetheless, the trade was still plagued by large-scale exploitation of immigrants, which jeopardized the respectability and moral standing of the business, worsened the burden of caring for the foreign poor, and diverted money and energy that otherwise would be expended on the economic development of the nation. New York City's merchants, many who viewed themselves as "moral stewards" of the city's population, sought to reform the trade not only because immigrant exploitation put undue economic burdens on the city, but because their ties to a trade that allowed such abuses might compromise their moral leadership.[10]

The city's merchants, as well as its nascent industrialists, were not interested in exclusion. It was in their interest to see as many people as possible come through, and their considerable wealth and social position gave them the ability to influence the process by which laws were passed and the ways officials implemented them. They wielded instruments like the New York Chamber of Commerce to consolidate their concerns and communicate them to legislators. Nativists who wished to restrict immigration simply did not have the same access to government power as the city's merchants. It is from the mercantile ranks that New York governors appointed most of the commissioners who served on the Emigration Board, at least in its first two decades.

---

[9] "Emigration: Report on the Operations of the Emigration Commissioners," *New York Times,* February 2, 1855, p. 3.

[10] For more on the merchants' sense of moral stewardship, see Sven Beckert, *The Monied Metropolis*: *New York City and the Consolidation of the American Bourgeoisie* (New York: Cambridge University Press, 2001), pp. 70-71.

To try to understand antebellum immigration policy without taking into account the interests of New York City's merchants produces an unfinished and fragmented picture. Merchants viewed the consolidation and organization of the immigrant trade under the new state agency as an important moral and humanitarian reform—and it unquestionably was—but it also benefitted them financially as well. These reforms eliminated smaller competitors and middlemen, boosted the value of merchants' shares in railroad and other transportation companies by ensuring a steady stream of westward passengers, and provided more purchasers of western tracts to drive up the value of their investments in land companies. Merchants did not view their personal financial gains resulting from this consolidation as morally problematic or a conflict of interest, seeing their own interests in alignment with the broader public good. Not all New Yorkers shared this viewpoint. That many commissioners did have interests in the shipping and railroad lines that carried immigrants led one editorialist for the *Irish American* to complain in 1852 that these were "the very men who should not be appointed," and to call for the democratic election of the commissioners.[11]

This study seeks to build upon the growing literature on the history of pre-federal immigration regulation, and also upon an exciting body of emerging work on the histories of political economy and capitalism.[12] By providing an important case study of how a new agency navigated the establishment of its authority and building up of its administrative capacity, it also contributes to the fields of American political history and

[11] *Irish American,* January 10, 1852, as cited in Robert Ernst, *Immigrant Life in New York City, 1825-1861* (New York: King's Crown Press, 1949), 31.

[12] Some of the works that I have in mind here include Jonathan Levy's *Freaks of Fortune: The Emerging World of Capitalism and Risk in America* (Cambridge, MA: Harvard University Press, 2012); the forthcoming edited volume edited by Brian Luskey and Wendy Woloson, *Capitalism by Gaslight: Shadow Economies of Nineteenth-Century America* (Philadelphia: University of Pennsylvania Press, 2015), and Gautham Rao's *At the Water's Edge: Customhouses, Governance, and the Origins of the Early American State* (forthcoming, University of Chicago Press).

political development as well. Lastly, the work engages the vibrant and expansive body of literature in citizenship studies by demonstrating how changing ideas about immigrants' relationship to citizenship played out in actual government practices. How did Americans' views about the relationship between government and the rights of citizens change from the antebellum period through Reconstruction? This question has been well explored in terms of freedmen and the federal government, but is less well understood in terms of immigrants in the pre-1882 era.[13]

Chapter One describes the regulatory regime that existed in New York before 1847, the rampant abuse of immigrants that it allowed, and some early attempts to reform it. The chapter then depicts the political process leading to the establishment of the State Emigration Board. Governor Hamilton Fish, looking back in an 1849 address, declared a state agency as the inevitable outcome from the start. The state, according to Fish, could no longer rely on county authorities or benevolent associations to take care of such an important issue as immigrant welfare, which was so integral to New York's prosperity. Instead, it committed itself to a "distinct department organized on a scale commensurate, not only with existing, but future necessities."[14] As this chapter shows, Fish was imposing a neat narrative on a messy reality. A major governmental innovation—the escalation of immigrant welfare from a local to a state affair—was the result of political maneuvering

[13] With regard to citizenship studies, I have in mind works like Linda Bosniak's *The Citizen and the Alien: Dilemmas of Contemporary Membership* (Princeton, NJ: Princeton University Press, 2006); Margot Canaday's *The Straight State: Sexuality and Citizenship in Twentieth-Century America* (Princeton, NJ: Princeton University Press, 2010); Mae M. Ngai's *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, NJ: Princeton University Press, 2004); Kunal M. Parker's "Citizenship and Immigration Law, 1800-1924," *Cambridge History of Law in America* ed. by Michael Grossberg and Christopher Tomlins (New York: Cambridge University Press, 2008); and Rogers M. Smith's *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven, CT: Yale University Press, 1997), to name just a few.

[14] "Governor's Message," *New York Tribune,* Jan. 3, 1849, p. 2.

and compromise, not studied forethought. The chapter concludes with an examination of the men selected to be the first commissioners and looks at the criteria used to choose them.

Chapter Two examines a critical period in the Emigration Board's history, from its founding in 1847 through the end of 1854, before the opening of the Castle Garden Depot the following year. It offers a window into how the commissioners struggled to establish their legitimacy and authority at a time before the modern conception of administrative law existed. It takes a cue from Margot Canaday's notion, with a nod to John R. Commons, of the "social history of the state," which defines "the state" as being "what officials do." [15] It examines how the commissioners built their capacity (in a literal bricks-and-mortar sense) to carry out their mandates, who they hired, how they developed certain practices, and how they navigated their often difficult relationships with other government agencies. I argue that the commissioners shaped their welfare state around a new sense of the "citizenship of aliens"—to borrow a phrase from legal theorist Linda Bosniak—meaning the recognition of the incipient rights of people who were on a path toward citizenship.[16] Steerage passengers were no longer mere articles of commerce to be treated little better than chattel, but a valuable resource to be cultivated and protected for the benefit of the ongoing nation-building project. Merchant capitalists were in a better position to envision immigrants as future citizens and contributors to the national economy than the Tammanyites and other New Yorkers with more of a local outlook, who viewed the Emigration Board's efforts with a great deal of suspicion.

[15] Margot Canaday, *The Straight State: Sexuality and Citizenship in Twentieth-Century America* (Princeton, NJ: Princeton University Press, 2009), p. 5.
[16] Linda Bosniak, *The Citizen and the Alien,* p. 1-4.

No one viewed the Board with more suspicion than the mayor who took office in January 1855: Fernando Wood. Chapter Three tells the paradoxical story of how the commissioners finally consolidated their authority by securing Castle Garden as an immigrant landing depot later that year, while at the same time fending off Wood's attempts to undermine them at every turn. The chapter places the commissioners' fight with Wood in the context of a larger state-versus-city struggle most infamously known through the battle between two police forces, the state-sponsored Metropolitans and the mayor-controlled Municipals. It also explores the controversy generated by the state agency's takeover of Castle Garden, a beloved public space that had many layers of symbolic meaning for the city's resident. Lastly, it details the Emigration Board's ongoing financial woes. These came largely from two sources: 1) the Board's conflict with the Board of Ten Governors—the municipal agency that oversaw almshouses and other welfare institutions in the city—over fiscal responsibility for certain classes of immigrants in city institutions; and 2), from the Board's ongoing administration of quarantine facilities at Staten Island, an expensive burden the commissioners did not want. A separate state agency, the Health Office, had managed quarantine procedures for decades and charged a separate "head tax" to support its endeavors. The 1849 US Supreme Court decision known as the *Passenger Cases* decision had declared this tax unconstitutional, making the Emigration Board financially responsible for maintaining them with its own funds. Quarantine was not a part of the Board's mandate as quarantine laws had jurisdiction over all classes of travelers entering the port, not just alien immigrants (who through their passage fares paid the Board's fees). The Board also had to deal with angry Staten Islanders who wanted the Marine Hospital nuisance removed

from their presence, and who finally took the matter into their own hands by burning the buildings at Quarantine to the ground in 1858. This act of arson led to a lengthy and costly legal battle to recover the Board's losses.

Chapter Four details the Emigration Board's activities during the Civil War, which radically shifted the way that New Yorkers perceived the agency. As the federal government expanded its powers over many different facets of American life, the Board appeared less of an outside threat than it had previously. The Board faced a significant challenge when Congress created a federal Immigration Bureau, although that underfunded endeavor ultimately failed to serve as the basis for the future nationalization as its originators had hoped. Like the Freedmen's Bureau, it was marked by grand aspirations that were woefully underfunded by Congress. In this context of wartime politics, however, the State Board no longer seemed to be a tentacle of the Albany legislature encroaching in municipal affairs, as Mayor Wood had depicted it in the 1850s, but as a respected and stalwart institution that provided an invaluable service to the city, state, and nation. In the war years and those immediately following it, the Board came to be much admired, and its Castle Garden Emigrant Depot especially became iconic nationally and even globally. The Board was even able to resolve its financial difficulties by shedding its responsibility for Quarantine and coming to a settlement with the Almshouse Governors (previously the Ten Governors). At the same time, not unfounded accusations continued to be leveled at the commissioners for establishing a monopoly over railroad and other transportation services for immigrants.

The study's fifth and final chapter relates the intertwined decline of the Emigration Board's effectiveness and the movement toward nationalization of

immigration authority. The 1870s proved a disastrous decade for the agency, beginning with the death of its longtime president, Gulian Verplanck, in 1870. The move toward nationalization was in part driven by calls for Chinese exclusion on the West Coast, but also due to the transition from sailing ships to steamships, which essentially destroyed the US-flagged merchant marine (damage inflicted by Confederate commerce raiders during the war also contributed to this). US shipbuilders did not yet have the capacity to build the large iron-hulled, screw-propeller steamships that came to dominate the steerage trade in the 1870s. As most of the steamship companies in the trade were foreign-flagged, it made more sense for regulatory authorities to be nationalized.

In 1870, the Tweed Ring, at the height of its powers, used its control of the New York State legislature to reconstitute the Emigration Board to its liking, making the formerly unpaid position of commissioner a salaried one, creating sinecures for the Ring's loyal underlings. While the Board was restored to its original form by 1873, its prestige was never the same. The Panic of 1873 and the subsequent economic depression curtailed immigration, which put the Board in difficult financial straits since it decreased the collection of the per-immigrant "commutation fee" that funded the commissioners' operations. Even worse for the Board was the catastrophic 1876 *Henderson v. New York* decision of the US Supreme Court, which declared the commutation fee a violation of the Commerce Clause. The commissioners were reduced to relying on the state legislature granting it emergency appropriations, and by 1882, they were literally begging Congress to federalize their responsibilities, which Congress at last did after the commissioners threatened to shut down their operations. The Treasury Department then subcontracted

the Emigration Board to continue its operations using funds generated by the new federal immigration "head tax."

It is my hope that the following study helps to reframe current debates about US immigration regulation by recovering some more inclusionary and supportive regimes from the American past. As this study makes clear, the New York State Board of the Commissioners of Emigration expended far more of its resources on aiding and protecting newcomers than on keeping them out. Furthermore, it attempts to reemphasize the significance of political economy in our understanding of nineteenth-century immigration regulation. It is impossible to understand antebellum and Civil-War era debates about immigration without this framework; in many ways, most community leaders, businessmen, and politicians were far more cognizant and forthright about immigrants' contributions to the national economy than they are today. Lastly, it is telling that when exclusionary discretion remained in the hands of local authorities, it was possible to maintain a system of case-by-case evaluations. Only with the development of a national citizenship after the Civil War—especially with the passage of the Fourteenth Amendment in 1868—did large-scale administrative categories of exclusion, most notably those based on race, ethnicity, and disability. This trajectory of course led to the 1924 National Origins Act, which in essence still survives today in the less patently offensive but still highly restrictive form of our current visa system.

The story of the New York Emigration Board challenges the reigning paradigm in the field that focuses on the origins of exclusionary practices. The roots of American immigration regulation cannot be understood by looking for the roots of exclusion alone. It is no small irony that the administrative capacity to enforce exclusion developed within

the context of a state regime that sought to support and protect newcomers. As Americans look toward future immigration reform, it is instructive to recover a "useable past" that demonstrates other possibilities for government functions aside from gatekeeper.

CHAPTER ONE: CREATING THE COMMISSIONERS

During the winter of 1846-1847, the rising number of homeless foreigners roaming the streets of New York alarmed the city's residents. Shivering with cold and hunger, these gaunt figures begged on sidewalks and knocked on doors of private residences to ask for aid. Immigrant ships continued to arrive well after the end of the sailing season, discharging their human cargo on the city's wharves and piers. Most vessels arriving had been delayed by storms by several weeks, which often meant that food had run out and passengers arrived in a debilitated condition. If newcomers were well enough to look for work, they found opportunities limited during the seasonal slowdown. Those who sought to move into the interior found transportation more expensive and less reliable than in warmer months, if possible at all. Stranded in the city, immigrants found their resources quickly depleted by the high cost of lodging and food. On New Year's Day, a newspaper account reported that roughly 800 immigrants had landed in the previous few days, the majority in a destitute condition. The municipal almshouse at Bellevue had become so crowded that workers were converting its workshops into dormitory space, but even that measure did not meet the demand.[1]

Nearly all commentators and policymakers agreed that something had to be done, but what kind of reform did they think was possible? Curiously, the idea of establishing a state agency to deal with the problem—which ultimately was done in May 1847—was not a part of the conversation during the winter of 1846-1847. Reformers in the city, especially those affiliated with Tammany Hall, had been focused throughout the past year

[1] Bayard Tuckerman, ed. *The Diary of Philip Hone, 1828-1851* (New York: Dodd, Mead, 1889), Vol. II, p. 294; "City Items," *New York Tribune,* Jan. 6, 1847, p. 4; "Emigrants from Holland," *Christian Observer,* Vol. 26, No. 2 (January 8, 1847), p. 6.

on fixing the municipal system, known by the enigmatic label of "bonding and commutation," that in theory protected city taxpayers from the cost of caring for the foreign poor.

The bonding and commutation system was the backbone of the city's immigration regime, but what exactly was it and how did it function? As detailed later in this chapter, the practices that comprised it evolved over the course of the late eighteenth and early nineteenth century, with the system in effect before 1847 based upon an 1824 state law. This law had dictated that a bond be posted for *every* steerage passenger, not just those likely to become public charges (first-class cabin passengers, who had the ability to pay a premium fare, were not a concern of the law). The bond in question was a contract that a shipper signed promising to pay city officials for *each* immigrant, agreeing to support the individual if he or she became sick or indigent and entered one of the city's institutions. The bond was in effect for two years, and its dollar amount was at the discretion of the city's mayor or recorder, but could not exceed $300.

The system may have seemed appropriate in 1824 when the immediate past few years' annual immigration through the port did not exceed 5,000. Even then, however, the administrative complexity of the bonds aggravated merchants, as did the reality of such large and risky liabilities looming over their heads for a two-year period, a cycle renewed every time an immigrant ship docked. The simple logistics of filling out hundreds of bond documents per ship was indeed daunting, especially when almost 20,000 landed in New York in 1828. While never altering the state law, city officials almost immediately developed a more pragmatic alternative: merchants could submit steerage passengers to inspection by a municipal almshouse official, and if that official

deemed an individual passenger unlikely to become public charges, the shipper could opt to "commute" the bond in exchange for a "commutation fee," which was initially set at $5.00 per passenger, reduced to $2.50, and by 1830, was lowered to $1.00. By paying this fee, the shipper was relieved of liability for that particular immigrant, and the cost of caring for the common poor was still defrayed. For people deemed likely to become a public charge, however, bonds were still required.[2]

By the late 1830s, commutation fell out of favor with shippers who came to prefer posting a bond to paying commutation because they could sell off a whole shipload of liabilities for cents on the dollar to a new class of unscrupulous bond brokers. If city officials called in a bond that had been sold to this type of operator, the likelihood that a cent would be recovered from it was slim. In 1845 and the first half of 1846, the Common Council had undertaken an in-depth investigation into the practices that developed around the bonding and commutation system, and as we shall see later in this chapter, the councilmen were aghast at the results. Most galling was that bond brokers had established their own private hospitals and poorhouses to avoid paying bonds, and to keep costs low, housed and fed the immigrants as cheaply as possible. In response, reformers in the city wished to do away with the bonding option so that only the commutation fee would be collected, thereby greatly strengthening the immigrant fund and cutting the dubious bondsmen out of the process. As one Tammany leader noted,

[2] The account of the convention discussion is from City of New York, *Documents of the City Convention, 1846* (New York: Jared W. Bell, 1846), Doc. No. 32: Report of Mr. Purser, pp. 235-244; the lowering of the commutation rates are from "Alien Passengers," *Newburyport Herald,* July 27, 1830, p. 1; and "Increase of Pauperism," *New York Morning Herald,* Aug. 16, 1830, p. 2.

collecting only the commutation fee "would afford an ample fund for the prompt relief of the unfortunate stranger."[3]

Earlier in 1846, councilmen attempted a reform by working through the state legislature. Tammany assemblyman John Develin proposed a bill tailored to address the Common Council's concerns, but the effort had been stymied. In October, Tammany leaders gathered to discuss a new strategy. Future US senator Eugene Casserly advised against channeling further efforts through Albany. "To lay it before the legislature again, would be to throw it overboard," Casserly declared. He claimed that a large lobby of ship owners and agents from the city would defeat the bill as they did to a similar measure the previous winter. Instead he advised implementing reforms through the proposed city charter revisions being drafted by an elected convention throughout the fall, which would produce a document that would be put to the vote in November. The largely Democratic charter convention appeared as the most viable way to circumvent the state legislature.[4] Disappointingly, the charter revisions failed to pass, likely due to some fraud and manipulation of the ballots by opponents wary of the document's home rule sentiments.[5] This defeat left the Tammany reformers once again looking toward Albany. The steady stream of impoverished newcomers served as a constant reminder that the city still had no effective means to deal with their ever-increasing numbers.

The above episode illustrates the highly fragmented and decentralized nature of what we now think of as "immigration regulation" and the confusion over what level of government had the most legitimate authority over it during the antebellum period. As admirable as this attempt at reform by the legislators on the Common Council was, its

[3] "Public Meeting on the Present Bonding System," *New York Herald,* October 7, 1846, p. 2.
[4] "Public Meeting…," *New York Herald,* October 7, 1846, p. 2.
[5] "The Amendments to the City Charter," *New York Tribune,* December 16, 1846, p. 1.

real value to the historian is that it reveals much about the mental universe in which these actors operated, showing what they thought was possible. Immigration encompassed multiple realms governed by different levels of government: while a ship was at sea, immigrants were subject to federal regulation; with matters of quarantine and public health, they were subject to state regulation; and after landing, immigrants were subject to municipal authorities with regard to social welfare and criminal justice issues. The predominant interpretation of the Commerce Clause reinforced this hierarchy of regulation (this is what FDR would in the 1930s call the "horse-and-buggy" interpretation of the clause). On some rare occasions, this layered system functioned smoothly. In January 1847, the body memorialized Congress with suggestions to reform the federal Steerage Act of 1819 based on observations of the effects of poor ventilation on the winter arrivals. Congress took up the request with alacrity, resulting in the passage of a reformed law the following month.[6] This episode of cooperation across levels of government, however, was the exception rather than the norm.

Some scholars have pointed to the antebellum period as an "open door" era in which no real regulation existed, while others have emphasized early local and state restrictive practices of excluding paupers, free blacks, and other undesirables as precursors to later exclusionary policies of the federal regime initiated in 1882. To depict antebellum immigration governance entirely in either of these lights does not help us discover the rationales behind policymakers' views and decisions. Issues of exclusion or non-exclusion aside, what antebellum immigration policymakers in New York were first and foremost concerned with was how to forge a coherent and effective means of using state power to respond to the new phenomenon of mass immigration in a humane and

[6] "Common Council," *New York Herald,* January 5, 1847, p. 2.

efficient way. At the same time, the parameters of what they thought was possible was hemmed in by existing structures and their own political agenda. Tammany reformers, in favor of local control or "home rule" in the city, only thought of reform in terms of the local system.

As historians like William Novak, Brian Balogh, and Peter Baldwin have argued, it is not useful to think of the nineteenth-century American state as "weak," but instead, as highly decentralized with strong local centers of power that often came into conflict with each other.[7] Local and state governments intervened in people's everyday lives frequently and aggressively. The challenge with the mass immigration for such a state was that the sheer volume and transience of migrants overwhelmed the capacities of local authorities accustomed to working on a much smaller and intimate scale. Mass immigration was a phenomenon with which local governments in the US were ill-prepared to cope, forcing the development of social welfare capacities beyond the local. More so than any other phenomenon, mass immigration pushed the growth of state power from the local level to larger scales. The Emigration Board represented an important transitional step in the power of the state from a locally based politics driven largely by individual reputation toward an independent bureaucratic autonomy.

The following chapter describes the process leading up to the creation of the New York State Board of the Commissioners of Emigration, the first agency in the US devoted to immigrant welfare, and likely the first statewide welfare agency of any kind in the

[7] William J. Novak, "The Myth of the 'Weak' American State," *American Historical Review,* Vol. 113, No. 3 (Jun. 2008), pp. 752-772; Peter Baldwin, "Beyond Weak and Strong: Rethinking the State in Comparative Policy History," *Journal of Policy History,* Vol. 17, No. 1 (2005), pp. 12-33; Brian Balogh, "The State of the State among Historians," *Social Science History,* Vol. 27, No. 3 (Fall 2003), pp. 455-463.

country. [8] The bill signed by Governor John Young on May 5, 1847, represented a major shift in the relationship between government and the newcomer. It elevated the management of immigrant welfare from the municipal to the statewide level, and more importantly, identified newcomers as an administrative category of persons worthy of government aid and protection. The old system had dealt with them only as potential threats to the local public health and treasury. Even when it had functioned well, its passive orientation did little to help immigrants themselves.

By contrast, the new agency centralized regulatory powers that had been scattered across different authorities, bringing them under its supervision. These included the State Health Office that oversaw inspections of incoming vessels and operated the Quarantine Hospital on Staten Island, and the municipal officials who administered the bonding and commutation system. The Emigration Board created a new institutional layer that eased the immigrant's transition to life in the US, especially in facilitating the journey into the interior and establishing a rudimentary welfare system. New institutions eventually included a protected landing depot and transportation hub, a labor exchange, a money forwarding and letter writing service, a currency exchange, luggage storage and transport, and a modern hospital and temporary housing complex on Ward's Island that immigrants could access for no charge up to five years after landing. The new agency not only developed many administrative practices that we now associate with modern immigration regulation, but took up a more supportive and humane position toward the immigrant than the present-day federal regime.

[8] David M. Schneider, *The History of Public Welfare in New York State, 1609-1866* (Chicago: University of Chicago Press, 1938), pp. 306-307.

Knowing how and why the Emigration Board operated and what its commissioners and employees sought to accomplish would be impossible without an understanding of the regime the Board replaced. Although the agency departed significantly from the preceding system, it was not an entirely clean break. Policymakers and officials crafted the new agency by responding to failures of the old system, and in certain cases wove existing structures and practices into the new regime where they thought it might shore up its legitimacy. This chapter thus details the evolution of regulatory practices in New York from the early republic through failed attempts at reform in the 1840s. It then turns to the political process that established the Emigration Board, demonstrating that a state authority was not a predetermined outcome, but the results of a highly contingent process. The chapter culminates with an analysis of the continuities and changes between the old and new regimes.

From the late 1790s until 1847, two main regulatory bodies presided over immigrants coming through the Port of New York: the municipal government and the State Health Office. The federal government, with its customs service, loomed in the background, allowing local authorities to take the lead with immigration. Municipal authorities oversaw a system designed to hold shippers financially responsible for the care of aliens who ended up in the city almshouse, while the Health Office enforced the state quarantine laws and operated the Marine Hospital on Staten Island. Each of these authorities collected separate fees from shippers to support their regimes. Both of these regimes were passive toward the immigrant in that they provided little protection or

guidance to newcomers; both were geared toward protecting the local community from possible threats the newcomers might introduce.

The municipal "commuting and bonding" system had its roots in the traditional Anglo-American public welfare tradition known as "settlement and removal." It proved an inadequate framework for dealing with mass migration since it was highly local in nature, having developed at a time and place when there were few transients. In England before the nineteenth century, towns and villages were legally bound to care for their own poor, with relief administered by local church officials. In the 1500s and 1600s, many localities developed practices to keep economically marginal newcomers from obtaining legal settlement. Settlement followed a period of lawful residency during which the newcomer paid a certain amount of rent or paid a certain level of taxes. Once settlement was established, it gave an individual access to poor relief in case of future calamity. Anyone who failed to meet settlement requirements before the trial period ended could be "removed" to his or her last legal place of residence. Parliament reinforced the practice across England with the 1662 passage of the Law of Settlement and Removal, which also raised property or tax requirements that put settlement out of the reach of most farm and manual laborers. Removal of "paupers" to their last place of settlement remained a feature of English public welfare for the next 200 years. Local authorities pushing unsettled individuals from town to town was not uncommon well through the nineteenth century.[9]

English settlers brought the same system to the New World. By the mid-eighteenth century, the Province of New York had established a system of settlement and removal similar to its English antecedent. Removal often happened without physical

[9] Handel, *Social Welfare in Western Society*, pp. 106-107.

force because local officials would deny assistance if it was requested, at which point the person was likely to move on at his or her own accord. A pauper unable to prove legal residence anywhere could be passed from town to town or even across the state border. Poor foreigners who failed to established residency often found themselves shuffled along in this manner. Since most had entered the state through New York City, many were pushed back there through a chain of removal proceedings.[10]

The first post-independence poor law passed in 1784 replicated the colonial removal system in most features, but secularized local overseers of the poor and empowered them to enter impoverished children into apprenticeships. A 1788 revision of this law created stricter criteria for attaining settlement, raising the annual rent requirement from £5 to £12 and extending the probationary period from a mere forty days to a year. The revised law also required a ship captain landing foreign migrants to provide the municipal authorities with a report listing their names and occupations within twenty-four hours of landing, and if an individual could not give a good account of himself or herself, it was the captain's responsibility to take the passenger back to the port of embarkation, in effect creating a transatlantic removal. The law demanded the captain post a bond worth £100 to protect against his failure to do so.[11]

By the 1790s, the New York City's almshouse commissioners argued that the municipal government deserved special funding since it was stuck both with aliens who had landed in the city and were too poor to go any further, as well as those who had been pushed back from the interior as a result of the removal process. Governor John Jay

[10] Gerald L. Neuman, "The Lost Century of American Immigration Law, 1776-1875," *Columbia Law Review,* Vol. 93, No. 8 (Dec., 1993), pp. 1852-1853.
[11] Raymond A. Mohl, *Poverty in New York, 1783-1824* (New York: Oxford University Press, 1971), pp. 55-59.

broached the idea of state assistance to care for the foreign poor in the city in a 1796 message to the state legislature: "As these people do not properly belong to any particular place in this or the neighboring states, would it not be right to consider those of them who may be real objects of charity as the poor of the State, and to provide for them accordingly?"[12] This idea would later be the backbone of the argument for statewide immigration agency: people not settled in one locality were the responsibility of the state.

A provision of the earlier 1788 law required shippers to remove those unable to give a good account of him- or herself back across the Atlantic. This demand proved unrealistic, so in its place the state legislature passed a 1797 law that required the posting of a bond for each immigrant before he or she was landed. The statute's language created some confusion over what the bonding process entailed, including questions about the value and duration of the bond, and if it really meant that every newcomer needed to be bonded.[13] A 1798 revision clarified the bonding provision: captains had to post a bond of a value determined by the mayor or recorder worth no more than $300 for every immigrant officials *deemed likely* to become a public charge for a period of two years (not every steerage passenger was subject to bonding). The law imposed harsh fines for captains who landed immigrants within fifty miles of the city with the intent of avoiding bonding. Merchants complained about the bonds so much that by 1808 municipal authorities were permitting captains to pay a $3-to-$5 "commutation fee" in lieu of the

[12] Charles Z. Lincoln, ed. *Messages from the Governors* (Albany: J. B. Lyon, 1909), Vol. II, p. 365, as quoted in David M. Schneider, *The History of Public Welfare in New York State, 1609-1866* (Chicago: University of Chicago Press, 1938), p. 134.
[13] Mohl, *Poverty in New York,* pp. 55-59.

bond. In addition, the legislature passed a bill that imposed a 1 percent tax on all import auction sales in the city to support the foreign poor amassed there.[14]

During the era of the Napoleonic Wars in Europe and the War of 1812, immigration from Europe dropped off precipitously. With the return of peace on both sides of the Atlantic in 1815, the flow picked up again, but still remained small compared to later decades. In New York, annual immigration did not surpass 5,000 through the early 1820s.[15] Indigent aliens did represent an outsized proportion of the city's almshouse inmates, especially after the Panic of 1819 and the subsequent depression. As a result, state lawmakers strengthened measures to prevent newcomers from becoming burdens on the city. On February 11, 1824, the legislature enacted a passenger law based on the 1798 law, but it differed in that it required bonds for *every* immigrant landed, not just those deemed likely to become public charges. Officials would obtain a report from the captain or master detailing the name, place of birth, last legal place of settlement, age, and occupation of each steerage passenger. From the list, the mayor or recorder would decide the value of the bond for each immigrant dependent on their likelihood becoming indigent, not to exceed $300 as in earlier laws.[16]

With the post-1819 depression, the cumbersome system of settlement and removal in the interior of the state began to break down as the number of unsettled indigent hit new levels. Court proceedings to challenge residency status proved exorbitant for local officials, and the unprecedented number of native and foreign poor in institutions in New York City and across the state reached alarming levels. The state

[14] Ibid., pp. 59-61.
[15] Robert G. Albion, *The Rise of New York Port, 1815-1860* (New York: Charles Scribner's Sons, 1939), Appendix XXVII: Immigration, p. 418.
[16] Friedrich Kapp, *Immigration and the Commissioners of Emigration* (New York: Nation Press, 1870), pp. 44-45.

legislature entrusted Secretary of State John Van Ness Yates to investigate the issue, and he undertook a massive survey of welfare practices across the state. With Yates's report in hand, legislators passed a law in November 1824 that created a new system of county almshouses. The law made each unsettled economic dependent the responsibility of the county in which he or she fell into need, and it forbade removal across county lines on the grounds that it was inhumane. Furthermore, the law attempted to do away with "outdoor relief"—charity given to the poor in their homes—and required those applying for relief to serve a term of no longer than six months in the county almshouse. The new law marked a significant shift in the way authorities dealt with the indigent, both foreign and native-born. Across the state, it pushed responsibility for the care of the poor away from the city and town level to the county level, mandating the construction of county almshouses, although both levels of government shared the cost. The escalation of the care of the poor from the municipal to county level made the establishment of a statewide agency devoted to immigrant welfare administratively feasible in 1847.[17]

As legal scholar Gerald Neuman has observed, sanctions imposed by state immigration laws "were aimed not at the immigrants, but rather at the persons responsible for transporting them."[18] More specifically, penalties were not levied against individual owners, but against a ship itself. For accounting purposes each vessel was viewed as a "separate business entity" as it was common for many individuals to own shares in one vessel. It is likely that the share-holding system of ownership detached

[17] The transition to the county almshouse was not immediate, as thirty-eight of fifty-four counties were exempted from this mandate, and many adopted a mixed system where a distinction between "town" and "county" paupers was maintained. David M. Schneider, *The History of Public Welfare in New York State, 1609-1866* (Chicago: University of Chicago Press, 1938), p. 235.
[18] Gerald L. Neuman, *Strangers to the Constitution: Immigrants, Borders, and Fundamental Law* (Princeton, NJ: Princeton University Press, 1996), p. 20.

owners from conditions on their ships, making the vessel little more than an accounting abstraction.[19] That individual immigrants bonds would be attached to such complex entities—with owners likely buying and selling shares during the two-year duration of the bond—helps to explain merchants' intense dislike for the bonding system.

As noted at the beginning of this chapter, merchants protested vehemently against the burdensome bonds required by the 1824 state passenger law and succeeded in convincing municipal authorities to accept a flat fee per immigrant, known as "commutation," in lieu of a bond. Despite this loophole, some merchants still wished to do away with the bonding and commutation system, and pursued a legal strategy against it based on the idea that it violated the Commerce Clause. In 1837, the Supreme Court handed down its decision in a shipper-sponsored challenge to New York's 1824 law requiring bonds for each passenger, *New York City vs. Miln.* The shipper, as will be detailed in Chapter Two, had incurred fees for violating the law and refused to pay up, opening up an opportunity to challenge the law's constitutionality in terms of the Commerce Clause. The relatively new Jacksonian majority reversed the Marshall-led court's direction toward affirmation of centralizing national power and ruled the law constitutional on grounds that the law was grounded in local police power, and was not a tax on foreign commerce. The decision preserved local authority over immigration regulation, preventing what would have been a beneficial reconsideration at the onset of mass immigration.

While immigrants could expect little aid from city or state authorities before 1847, they could obtain limited assistance from benevolent associations of their established

[19] Robert G. Albion, "Early Nineteenth-Century Shipowning—A Chapter in Business Enterprise." *Journal of Economic History*. Volume I, No. 1 (May 1941), p. 2.

countrymen. During the first decades of the early republic, immigrant communities established these organizations mainly as social clubs, but also to perform some sporadic charitable endeavors to assist and provide a ready-made network for newly arrived countrymen. The listing of these societies in a New York City annual register for 1840 included the Hebrew Benevolent Society, St. George's Society for English immigrants, St. Andrew's Society for Scots, St. Patrick's Society for the Irish, St. David's Society for the Welsh, St. Nicholas Society for the Dutch, as well as the German Society and French Benevolent Society.[20] The oldest ones, founded before 1800, were St. George's, St. Andrew's, the Friendly Sons of St. Patrick, and the German Society. The last, founded in 1784, was by the mid-nineteenth century one of the most efficient in distributing its largesse. It had many wealthy members, including sugar merchant William Havemeyer and fur and real estate mogul John Jacob Astor. The other societies were more sporadic in their charitable endeavors.[21] In the late 1830s, the Friendly Sons of St. Patrick, also founded in 1784, investigated the idea of creating an association entirely devoted to Irish newcomers, resulting in the Irish Emigrant Society in 1841. This organization quickly became a rival of the German Society in terms of its advocacy and aid.[22]

By the mid-1840s, the German Society and Irish Emigrant Society both became quasi-professional welfare organizations, and key players in the move to reform and protect immigrants landing in the city. In its 1842 report, the Irish Emigrant Society claimed to have found 1,200 jobs for new arrivals, reported on cruelties on immigrant

[20] Edwin Williams, *The Annual Register for the Year of Our Lord 1840* (New York: David Felt & Co., 1840), p. 346.
[21] Robert Ernst, *Immigrant Life in New York City, 1825-1863* (1949, reprint, Syracuse: Syracuse University Press, 1994), pp. 32-33.
[22] Marion R. Casey, "Refractive History: Memory and the Founders of the Emigrant Saving Bank," in J.J. Lee & Marion E. Casey, eds. *Making the Irish American: History and Heritage of the Irish in the United States* (New York: New York University Press, 2006), p. 306.

ships to the authorities, aided in the prosecution of a variety of immigrant swindlers, and worked with the American consul in Britain, James Buchanan, to advertise a list of dishonest New York boarding-house keepers in Liverpool.[23] Likewise, by the 1840s, the German Society, became more professionalized, especially after 1849 when former president John Jacob Astor bequeathed $20,000 for it to hire a permanent office with a salaried staff. The society was then able to organize multiple departments, including an Information Department that published advice booklets distributed in the German lands, a Work Office that found employment for immigrants, and a Welfare Office that provided assistance with housing and legal problems.[24] Both of these societies mirrored the more systematic, professionalized, and disciplined approach toward charity embodied by the Association for Improving the Condition of the Poor (AICP), founded in 1843, which in turn profoundly influenced the operation of the Emigration Board. The prominent merchant Robert Minturn, who played a role in founding the AICP, would serve as commissioner on the Emigration Board as well.

Despite their status as "private" benevolent societies, it is important to see the German Society and the Irish Emigrant Society as two elements in the state-building enterprise surrounding immigration in New York City. The modern line between "public" and "private" was much blurred with associations like the ethnic benevolent societies; each sought an official charter of incorporation from the state legislature and was expected to contribute to the public good and complement the regulatory functions of

[23] Richard J. Purcell, "The Irish Emigrant Society of New York," *Studies: An Irish Quarterly Review,* Vol. 27 (1938), p. 590,
[24] Klaus Wust, *Guardian on the Hudson: The German Society of New York, 1784-1984* (New York: The German Society of New York, 1984), pp. 27-28.

government.[25] The two societies worked through the Common Council in July 1844 to obtain part of the pier at the foot of Vesey Street to create an enclosed landing area for immigrants "under the care of the aforesaid societies," and their lobbying proved an important factor in the Common Council's effort to pass a law fining captains of lighters $100 if they did not land there.[26] Although that law was ineffective, it did demonstrate the leverage the societies exerted on the city government. The architects of the State Emigration Board recognized the hands-on experience of society's officials' with immigrants' issues as complementary to the Board's goals, and made the presidents of each organization *ex officio* commissioners.

At the same time, the existence of the charitable societies may have delayed the more extensive government intervention since the societies were seen as fulfilling social obligations to "strangers," mitigating the need for state intervention. With the uptick in immigration in the early 1840s, however, that perception began to fade, as the problem presented by indigent aliens swelled to a size that made the work of these societies to be a mere drop in the bucket. Upstate counties also began to experience a greater influx of newcomers, outside of the reach of the city-based organizations. After landing in New York, many immigrants moved into the interior of the state only to fall into indigence, becoming a burden to county almshouses. Legislators from the state's interior resented that their county treasuries did not have the same protections that the bonding and commuting afforded the city, and sought to rectify this situation with a bill before the state assembly in March 1841. It would have allowed a superintendant of the poor at any

[25] William J. Novak, "The Legal Transformation of Citizenship in Nineteenth-Century America," in Meg Jacobs, William J. Novak, Julian E. Zelizer, eds., *The Democratic Experiment: New Directions in American Political History* (Princeton, NJ: Princeton University Press, 2003), pp. 97-102.
[26] *Proceedings of the Board of Aldermen and Assistant Aldermen* (New York: J.F. Trow, 1845), Vol. XII (May 14, 1844 to May 13, 1845), pp. 42, 64-65.

county almshouse in the state to notify the New York City Commissioners of the Almshouse if he suspected anyone under his care to be a non-citizen who had landed in the Port of New York within the past two years. If it turned out that such a person had been bonded or commuted by city authorities, the law would require that he or she be removed back at the City of New York's expense.[27]

A committee of three aldermen, including wealthy industrialist and leading civic reformer, Peter Cooper, reviewed the bill and issued a report that strongly advised against its passage. Undoubtedly some partisan sentiments infused the memorial as the State Assembly had a Whig majority, while the Common Council a Democratic one. The committee's report noted that the city was already burdened with too many of the foreign poor, and that making it responsible for indigent aliens upstate as well would be grossly unfair. According to the report, most foreigners who made their way into the interior were "generally enterprising and industrious, and able to provide for themselves. While of those who are vicious and improvident, (and of this class there are some in every community,) by far the greatest proportion find more inducement to remain in our city, where they are likely to become a public charge."[28]

The report argued that the bill would have the effect of restricting immigration by raising the cost of passage. City authorities, in light of the new burden, would be forced to require a bond for every foreign passenger with no option of commutation, or alternatively, the commutation fee would need to be raised "very considerably." The authors reasoned that the city should not be held responsible for a foreign laborer who became ill and lost wages while working on internal improvements that benefited upstate

[27] New York City, *Documents of the Board of Aldermen,* Vol. No. VII (May 1840-May 1841), Document No. 80, March 22, 1841, pp. 801-802.
[28] Ibid., p. 802.

communities simply because he had landed in the City of New York. They further concluded that the law was impracticable since there was no reliable means of identifying the pauper as the same person whom had been bonded or commuted. And the bill offered no relief from the cost of supporting foreign poor who entered the state by way of the Canadian provinces. The committee argued that the reinstitution of the old poor law regulations for settlement and removal would have been preferable to this bill, as it would reinstitute an equal and reciprocal relationship between the counties and not impose extra burdens on the City of New York.[29] The corporation counsel drafted a memorial that was based on the report that was then transmitted to the state legislature; it may have had the desired effect, as the law did not pass. Curiously, in May 1842—a bit more than a year later after the Assembly bill failed—representatives from Kings County managed to get an act passed that offered the same protection in the 1841 bill, but only for their county, foreshadowing the future development of the Metropolitan District of the 1860s and perhaps the consolidated city of 1898.[30]

The April 1842 city elections had significant implications for the future of immigration regulation. The Democratic mayor, Robert Morris, retained his seat, but both the Board of Alderman and Board of Assistants in the Common Council went from Democratic to Whig majorities. The Whig majority removed the longstanding Mayor's Clerk, John Ahern, in favor of Whig loyalist and special police justice, Robert Taylor. Taylor discovered that the previous Mayor's Clerk, John Ahern, had not kept any records of the bonds and commutation fees collected for several years. In a painstaking

[29] Ibid., pp. 803-805.
[30] "Foreign Paupers in Kings County," *Brooklyn Daily Eagle,* May 6, 1842, p. 2.

investigation, Taylor learned that Ahern had embezzled a large amount of the commutation fund. [31]

As the *Herald* reported, Taylor had found that Ahern had kept "no books or accounts" of the "receipt or disposition of these moneys, and on comparing the lists of passengers commuted for, furnished by Ahern to the commissioners of the Alms House, and the moneys paid into the City Treasury from the same source," finding "a disparity of several thousands of dollars." Taylor then examined the customs house registers, and saw that "a great number" of ships carrying passengers had not been reported to the Alms House Commissioners at all, and that the amount of commutation money Ahern absconded "will not fall short of $60,000 and may exceed $100,000."[32]

Ahern's defalcations were not the full extent of the corruption. In his investigations of Ahern's frauds, Taylor discovered that the state official collecting the "hospital tax" that supported the Marine Hospital and quarantine station also had absconded. The Health Office, which operated those facilities, was a state agency, but its funds were deposited through the city government through channels similar to the commutation fund. James H. Ward, who oversaw the hospital fund, had been doctoring his books, writing down fewer passengers than were actually on incoming vessels and pocketing the difference, taking what could have amounted to as much as $10,000.[33]

The scandals under Democratic Mayor Morris and growing anti-immigrant sentiment led to the election of New York's only nativist mayor, the publisher James Harper, in April 1844. During Harper's term, the nativist majority in the Common

[31] Robert Taylor Diaries, 1846-1847 Vol., Manuscript and Archives Division, Stephen A. Schwarzman Building, New York Public Library, p. 4.
[32] "City Intelligence," *New York Herald,* Sep. 28, 1842, p. 7.
[33] "City Intelligence," *New York Herald,* Nov. 6, 1842, p. 2.

Council issued a report suggesting that the body should memorialize Congress to pass a law "instructing our Consuls abroad to examine the emigrants for this country at their respective place of shipment, and if they find, on examination, that such emigrants have not been inmates of a prison or a poor-house, to give them a certificate to that effect, and when not satisfied to this effect, they shall refuse the certificate."[34] The suggestion fell upon deaf ears, but did demonstrate that at least some politicians were already imagining a more expansive role for the federal government in immigration regulation.

In June 1844, the Common Council requested that the mayor only receive commutation fees and refuse to grant bonds.[35] As City Comptroller John Ewen confirmed in his report for the 1845, the bonding system was bringing in negligible funds for the support of the foreign poor in the city's almshouse, even with responsible management. Ewen noted that almost 182,000 alien and citizens passengers had landed in the past three years, of which roughly 20,000 were commuted, which brought in roughly $21,000 in revenue. In addition, just under $20,000 had been received from bonds called in. As noted earlier, shippers sold off these liabilities to unscrupulous private bond brokers, who found elaborate methods to avoid paying bonds when they came due. If a $1.00 commutation fee had been collected on all alien passengers instead, the city would have received at least $140,000 instead of just $41,000.[36]

The abuses of the bonding system by bond brokers were just one aspect of the exploitation of immigrants that had become ensconced in the port. More visible to the

[34] New York City Board of Aldermen, *Documents* (New York: J.F. Trow & Co., 1845), Vol. 11 (May 14, 1844-May 13, 1845), No. 11 (Jan. 6, 1845), p. 441.
[35] *Proceedings of the Board of Aldermen and Assistant Aldermen* (New York: J.F. Trow, 1845), Vol. XII (May 14, 1844 to May 13, 1845), p. 38.
[36] As quoted in Friederich Kapp, *Immigration and the Commissioners of Emigration* (New York: The Nation Press, 1870), pp. 49-50.

general public were the "emigrant runners," a cadre of exploiters who by the mid-1840s could be seen milling about the wharves and piers, awaiting the arrival of the next immigrant ship. They served as the front line of an elaborate system of immigrant exploitation, channeling arrivals into boarding houses that catered to the immigrant trade, and to "forwarding offices" that sold tickets for inland transportation, and they proved incredibly resistant to effort to regulate them. According to one observer, runners made their living by luring travelers to "lodging-houses and grog shops" where the proprietors would pay out a small per capita fee. Innkeepers would then charge much higher rates than the runner had promised for room, board, and luggage storage, and would hold baggage hostage until the bill was paid. Sometimes they would steal passengers' trunks outright. A disgusted traveler declared the state of affairs "a disgrace to the police of the city to allow passengers to be robbed by such a race; but there has been no effectual stop put to their depredations, although every vessel with passengers suffers by them."[37]

In the waning days of the Harper administration, the mayor pushed for the passage of an ordinance intended to rein in immigrant runners and other exploiters. It required each runner to have a license costing $20 a year and be bonded for $300 "as security for his good behavior." In addition, the runner was to wear "a label or plate with the word 'Licensed Runner,' and the number of the license thereon." Boarding-house keepers were also required to be licensed, and to post their rates for room, board, and luggage storage on signage in English, German, French, and Welsh. Likewise, passage bookers needed to maintain a permanent office and give bonds to the mayor for the sum of $500 to secure

[37] *Report of the Select Committee Appointed by the Legislature of New-York, to Examine into Frauds upon Emigrants* (Albany: C. Van Benthuysen, 1847), p. 4.

their "fair dealings toward the emigrant."[38]

The act once again required a dedicated pier for landing immigrants, this time at the foot of Albany Street, to be overseen by a committee of one person from each of the benevolent societies "existing for the benefit of emigrant aliens." The ordinance compelled all shipmasters to land at that pier, threatening a fine of $500 or year of imprisonment for non-compliance. Expenses for the rent of the pier, the payment of two police officers to be stationed there, and they expense of returning "alien paupers and criminals" from whence they came would be paid for through the licensing fees collected by the mayor, so thereby apparently replacing the bonding and commutation fees, all without any action or communication with the state legislature.[39]

Soon after Democrat William Havemeyer took office, he requested the Common Council to revise the law since he viewed several of its provisions as of dubious legality. Havemeyer clung to the Jacksonian ideal that government intervention in commerce should be limited. The revised bill still required landing passengers at the Albany Street dock, but removed some of the harshest provisions and the licensing requirements for runners and boarding-house keepers.[40] After praising the law as it stood, a *Herald* editorialist complained, "But it seems that the present Mayor and his legal advisers have found some unconstitutionality in the law, thereby leaving the emigrant still the defenceless prey of the various parties who cheat and fleece them, often even to the uttermost farthing." As the writer noted, runners had been loading immigrants directly

---

[38] *Documents of the Board of Aldermen of the City of New-York*, Vol. XI (May 14, 1844, to May 13, 1845), Doc. 66 (April 23, 1845), pp. 841-844.
[39] *Ibid.*
[40] *Documents of the Board of Aldermen of the City of New-York*, Vol. XII (May 1845 to May 1846), Doc. 7 (June 11, 1845), pp. 73-74; Proceedings of the Board of Aldermen and Assistant Aldermen (May 13, 1845 to May 12, 1846), Vol. XIII, pp. 141-143.

from Quarantine up to Albany on steamboats, thereby circumventing the required landing at the dock on Albany Street.[41] For this reason, the practice of unloading all steerage passengers at Quarantine even when they were all healthy was soon discontinued. Overall, these municipal regulation attempts proved futile. The nascent police force did not have enough manpower to enforce such measures along the city's expansive and chaotic waterfront, and without any consequence, the exploiters felt little compunction to comply. Further research is needed to see how extensively these municipal laws were enforced, but the limited mention of them in the press after their passage points to sporadic enforcement, if any at all. Conversely, the press did continue to report abuses that the measures were designed to stop.

In late January of 1846, the Board of Assistant Aldermen received the testimony of several Irish immigrants that inflamed public opinion against the bonding and commuting system even more so than previously. Brokers had long since been taking buying bonds for immigrants likely to become public charges off the hands of shippers for a small fee and skipping town when bonds came due. The Common Council investigation revealed an even more pernicious strategy to avoid paying up on bonds: more established bond brokers were opening their own private hospitals and poorhouses as an alternate to the city institutions, keeping the newcomers under horrific conditions. On February 2, the Board of Assistant Aldermen established a special committee to investigate one such facility, the Tapscotts' private immigrant poorhouse in the town of Williamsburg (now in Brooklyn). The firm of William & James T. Tapscott was one of the bigger forwarding houses, running a transatlantic business: William operated a passenger brokerage in Liverpool and James maintained the New York bureau and

[41] "The Foreign Emigrants," *New York Herald,* June 4, 1845, p. 2.

oversaw the bond brokerage. As the special committee discovered, conditions in the brothers' poorhouse were nightmarish. They found its inmates sickly and starving and the sleeping compartments rife with vermin. Inmates testified that the biscuits were covered with blue mold and the other rations inedible. The committee, led by Assistant Alderman George F. Purser, judged the premises unfit for human habitation. The Tapscott abuses became a rallying cry for the reform movement, but efforts remained frustrated for more than a year after the investigation.[42] The tidal wave of indigent immigrants in the winter of 1846-1847 finally set the stage for a new legislative effort, and the injustices of private poorhouses under the bonding system peppered much of the rhetoric.

The idea of using a permanent state agency to manage or regulate a particular matter of statewide concern in New York was not unprecedented, although very few authorities of this kind existed in the early 1840s. State legislatures in the nineteenth century rarely passed "general legislation," which created laws applicable to the entire state. The vast majority of their business up through the end of the nineteenth century was "special legislation" that was local or private in nature. These bills addressed appeals from private individuals or collectivities of citizens that asked for funds to implement local projects that benefited the public good, regulation of matters that reached beyond the borders of individual municipalities, monetary reimbursement for damages for which the state was somehow responsible, and for changes to municipal or institutional charters.[43] In the 1840s, the New York State legislature was not in the regular habit of establishing

[42] Friederich Kapp, *Immigration and the Commissioners of Emigration* (New York: The Nation Press, 1870), pp. 50-58.
[43] Robert M. Ireland, "The Problem of Local, Private, and Special Legislation in the Nineteenth-Century United States," *American Journal of Legal History,* Vol. 46, No. 3 (July 2003), pp. 271-272.

agencies with statewide powers.

The precedent of having state agencies manage matters integral the state's economic growth had been established, but this power was used infrequently, especially with the ascension of the Jacksonian Democrats who sought to shrink the size of government and decrease funding for internal improvements, especially in the depression following the Panic of 1837. Even when Whigs held the governorship and majorities in the Senate and Assembly—as they did under William Seward's administration—Democrats pushed for austerity, managing to pass a "Stop and Tax" law in 1842 that halted new canal construction.[44] The state legislature created no new executive state agencies from 1826 until the 1847 establishment of the Emigration Board, which marked the beginning of a new wave from the late 1840s through the 1860s. These included the Board of the Commissioners of Pilots in 1853, the Board of Commissioners of Central Park in 1856, the Metropolitan Commissioners of Police in 1857, the Metropolitan Fire Commissioners in 1865, and the Metropolitan Board of Health in 1866. Whig and later Republican legislators in Albany created many of these with the intent of giving the state government more control over the affairs of the City of New York, in attempt to override Tammany's grip on city government.

In 1847, a statewide agency devoted to immigrant welfare was a significant innovation, both within New York and nationally. The only possible model policymakers may have had in mind was the British Colonial Land and Emigration Commission, which was established in 1840. In addition to encouraging migration to British colonies, it also

[44] Democrats did control the Senate during Seward's first year, but had control of both chambers for the rest of his term. Carol Sheriff, *The Artificial River: The Erie Canal and the Paradox of Progress, 1817-1862* (New York: Hill & Wang, 1997), pp. 107-108.

regulated conditions for steerage passengers in ships departing from major British ports.[45] New York merchants were well aware of this British authority. As an 1846 report in the *Tribune* noted, the city's shipowners and masters were "at issue with the [British] Commissioners of Emigration with regard to the stringency of Lloyd's Registry book in the matter of vessels carrying great numbers of steerage passengers."[46] Further research is needed to see how closely state legislators who created the Emigration Board envisioned it as an instrument of demographic management and distribution akin to the British imperial emigration agency.

In early January 1846, before the Tapscott episode erupted in the Common Council, a twenty-five-year-old Irish-American lawyer named John Edward Develin arrived in Albany as a newly elected state assemblyman, one of the thirteen members of the New York City delegation, all Democrats. As noted at the beginning of the chapter, Tammany Democrats had been agitating to do away with the bonding option in the municipal system. Develin proposed a bill doing so on February 11, and according to the *New York Herald,* contained several other features that the Common Council had already passed on the municipal level, but had proven ineffective. These included requirement for runners for boarding houses, steamboats, or passenger offices to obtain a license issued from the Mayor of New York in order to board ships to solicit patronage; another for boarding-house keepers to print and post their fees in several languages prominently in their offices; passage offices similarly had to post transportation costs; and another mandated shippers to land all immigrants at a designated immigrant pier. The

[45] Fred H. Hitchins, *The Colonial Land and Emigration Commission* (Philadelphia: University of Pennsylvania Press, 1931), p. 45.
[46] "Fifteen Days Later from Europe," *New York Tribune,* May 22, 1846, p. 2. The word "immigration" was in sporadic use in the late 1840s, but "emigration" seemed in far more common usage.

correspondent concluded, "Some protective law is necessary, whether this is the right one or not, I am not competent to say."[47]

Although Develin would remain a driving force in moving the legislation forward over the next year, the shape of the bill that was signed into law in May 1847 was quite different from the one that he had set out to pass. Develin's bill had kept the regulatory and welfare apparatus under the control of the officials of the City of New York, which was not a fundamental change from the status quo. He must have been aware that immigration was no longer an issue that could be contained within the boundaries of the metropolis, but as a city Democrat, he could not have imagined anything but municipal control. Despite popular revulsion over revelations about extensive corruption and systematic abuse, repeated attempts at reforming the system through the Common Council had failed. By early 1846, Develin and other Democratic immigrant advocates had no option but to turn to the state legislature, albeit reluctantly. Even with Democratic majorities in both houses, Develin's bill went nowhere. On March 18, James Gordon Bennett's *Herald* blasted what he saw as the bill's probable effects with a Jacksonian critique that was likely shared by other Democrats: the licensing fees would favor only the big boarding houses and passenger forwarding businesses, creating monopolies that would exploit immigrants even more ruthlessly than before.[48]

Indeed, a few days later, a bill was introduced by a more conservative city Democrat to counter Develin's, "on the ground of its interference with that which only concerns this City, and which should be left to the action of its authorities."[49] As noted at the beginning of the chapter, Tammanyites tried to rally to the issue again, holding a

[47] "Things in Albany," *New York Herald,* Feb. 13, 1846, p. 2.
[48] "Protection to Emigrants," *New York Herald,* March 18, 1846, p. 2.
[49] "Protection to Emigrants," *New York Tribune,* March 23, 1846, p. 2.

boisterous public meeting at Tammany Hall in October 1846 to influence the convention to revise the city charter concurrently in session. The meeting resolved that the new charter should do away with the bonding system, replacing it entirely with the commutation fee. The effort apparently carried into the charter revision proposals, but city voters dumped the charter in the November election.[50]

The disastrous famine migration continued through the winter of 1846 and 1847. Many of the city's merchants, mostly Whigs, had been sensitized to the plight of Ireland and her people through their involvement in famine relief during the winter of 1846-1847, in part coordinated by future emigration commissioner, the Irish-born Quaker Jacob Harvey. When the Society of Friends in Ireland reached out to their brethren in the US by the fall of 1846, Harvey took charge of the informal effort. He proudly declared in January 1847 that recent Irish immigrants to the US were not burdensome paupers, but had made over $1 million in voluntary donations over the past year to aid the people of their native land. As deaths from starvation mounted, prominent New Yorkers organized a standing committee for Irish relief on February 10, and held a mass public meeting to orchestrate the city's efforts at the Broadway Tabernacle on February 15. Among the meeting's presiding officers were several future emigration commissioners, including Leopold Bierwirth, James Boorman, Jacob Harvey, William Havemeyer, Robert Minturn, and Adolph Rodewald. The committee organized the sailing of a relief ship, the *Macedonian,* which after several delays finally departed from the Battery for Ireland on June 19.[51]

---

[50] "Public Meeting on the Present Bonding System," *New York Herald,* Oct. 7, 1846, p. 2.
[51] "The Irish," *Anglo-American,* Vol. 8. No. 15 (Jan. 30, 1847), p. 358; "Relief for Ireland—Great Meeting at the Tabernacle," *Albion,* Vol. 8, No. 6 (February 20, 1847), p. 93; Cecil Woodham-Smith, *The Great Hunger: Ireland, 1845-1849* (London: Hamish Hamilton, 1962), pp. 243-245.

Back in Albany, Assemblyman John Develin proposed another version of his passenger bill again on February 12. It had a slightly different shape, putting forth a $1 commutation fee on all alien passengers except those deemed "infirm," who would be required to be bonded up to $300 by the mayor. For the first time, the bond would be in effect across the entire state, but the law's operation would be administered by the mayor's office and the Alms House Commissioners.[52] It passed the Assembly; various emigrant societies in the city memorialized the State Senate, trying to convince them pass it. But as a *Herald* reporter noted, "The western members of that chamber have displayed an inveterate opposition to the bill, from the period of its inception."[53] Upstate senators most likely militated against the bill not only because of the City of New York's control over a statewide mechanism, but because it provided upstate cities with no relief for indigent aliens that had crossed over from Canada. In mid-March, Buffalo had roughly 3,000 foreigners in its alms house, many whom had come from the north.[54]

At the same time, the New York Chamber of Commerce, the powerful body representing the interests of the city's mercantile class, also took a stand against the bill. In a mid-March memorial to the legislature, the Chamber opposed the language that demanded that $300 bonds for the "decrepit and infirm," and that the bonds be held on "real estate" worth at least double the penalty of the bond, and that the bond would be held for a duration of five years. This measure obviously sought to deter the unscrupulous bond brokers for taking on bonds that they could never pay back, but the city's merchants found the practical effects of the measure ridiculous. The memorial noted "there are few among our merchants probably possessed of sufficient real estate to enable them to give

[52] "Legislature of New York," *New York Tribune,* Feb. 15, 1847, p. 2.
[53] "Affairs in Albany," *New York Herald,* Mar. 10, 1847, p. 3.
[54] "Emigrant Passengers," *New York Tribune,* Mar. 16, 1847, p. 2.

such bonds." The general per immigrant fee would provide plenty of funds to support the infirm, and the merchants would happily see this tax raised if it meant dispensing with the bonding feature of the law. Furthermore, the law was inhumane because it would force families to be broken up since "it must necessarily compel the masters of passenger vessels to refuse to board any single individual or member of a family who should be infirm."[55]

By March 19, word reached the city that the Senate had tabled the bill, and was threatening to stall it. In response, Common Council members requested Democratic mayor, Andrew Mickle, to call a public meeting to rally support to move the bill forward on the evening of March 22 at the Broadway Tabernacle. In the 1840s and early 1850s, raucous political gatherings were not uncommon at that venue, a spacious hall seating 2,400 at the intersection of Anthony Street (now Worth Street) in lower Manhattan. Built for renowned revivalist preacher Charles Grandison Finney in 1835, the hall hosted many public assemblies, both sacred and secular, from abolitionist speeches to musical performances. The abolition of slavery, the abolition of capital punishment, African colonization by freed slaves, expansion of women's "sphere," Irish independence, the Kansas-Nebraska Act, suppression of gambling, and temperance are just a sample of the themes. Such general meetings of citizens were fairly common during this period, often called by advocacy associations like the American Anti-Slavery Society or the New-York Association for the Suppression of Gambling.[56]

---

[55] New York Chamber of Commerce and Industry Records, 1768-1984, Series VII: Correspondence, 1804-1984, Sub-series VII.3: Subject Files, 1804-1979, Box 231, Folder 4: Immigration 1862-1867, Butler Library, Columbia University, New York, New York.

[56] Description of the Broadway Tabernacle is from Nathan Silver, *Lost New York,* Expanded and Rev. Ed. (New York: Houghton Mifflin, 1967; 2000), p. 46. Topics of other Tabernacle meetings were culled from a ProQuest Historical Newspapers search of the *New York Tribune* from 1845 to 1855.

By the day of the meeting, a new version of the bill circulated that for the first time featured commissioners to oversee the law's operation, although it was unclear whether or not they would be operating on the basis of state or municipal authority. The meeting was supposed to convene at seven, but did not since Mayor Mickle and many Common Council members failed to show up. After a delay of an hour, Charles O'Conor, a respected legal mind and pro-slavery Tammany Democrat, was successfully put forth to chair the meeting. In addition, four secretaries were nominated, including two prominent and exceedingly wealthy Whig shipping merchants—Captain Charles H. Marshall and Moses H. Grinnell—who were accepted, reflecting the bipartisan spirit of the gathering. The meeting reflected a bipartisanship that had been missing from earlier reform efforts.[57]

The range of speakers reflected the differing attitudes about immigrants' rights and whether immigration regulation should remain a local affair or a matter for the state government. The first to take the dais was John McKeon, the District Attorney of New York County. A combative and independent Democrat who already had served multiple terms in the New York State Assembly and in the US House of Representatives, McKeon later would serve as US Attorney for New York's Southern District. He was already on his way to establishing a reputation as a relentless prosecutor and anti-corruption crusader who later would play a major role in bringing down the Tweed Ring.[58] McKeon spoke in favor of the commutation fund being overseen by state commissioners, and not the City Treasury. The next speaker, Tammany Alderman George F. Purser, differed from McKeon only in that he wished to keep the funds under the control of the Common

[57] "Immigrant Passage Law—Meeting at the Tabernacle," *New York Tribune,* March 24, 1847, p. 2.
[58] "Sketch of the Candidates," *New York Times,* Oct. 19, 1881, p.

Council, and another speaker after Purser reiterated this position. Next to the dais was Alvan Bovay, who claimed to be a representative of the workingman, who stated that the matter had to be examined beyond just the issue of taxation. Bovay was quickly shouted down. The Whig merchant Moses Grinnell followed, and gave a "sharp hit" to the Common Council for not showing up, and then denounced the bonding system seemingly beloved by the Democrats, roiling many in the crowd. Chaos ensued, and the radical Bovay once again tried to take the stage, fulminating against the "Land Monopoly" in Europe that was pushing the masses to the US. When order was restored, a vote was at last taken, and McKeon's resolutions we officially adopted and memorialized to be sent to the state legislature.[59]

The pressure from the city meeting breathed new life into the bill, and by mid-April it was in a select committee of the State Senate, undergoing the modification desired by the "westerners."[60] A *Herald* editorial, rallying behind the legislative effort, on April 21 implored readers to not look down upon immigrants and consider them destitute "because they do not wear fine broad cloth. They have for years perhaps been amassing their little store, and like sensible men, think it more prudent to expend it in a way that will tend to their reaching their places of destination, then in purchasing fine clothes."[61] Even the relatively conservative *Herald* was calling for a new political and legal construct surrounding the immigrant as a class of individual worthy of government aid and support, and not merely as an alien threat to the community.

By April 30, the new version passed both houses and was signed by the governor on May 5. The new law assuaged the "inhuman" aspect of the bonding mechanism for the

[59] "Immigrant Passage Law—Meeting at the Tabernacle," *New York Tribune,* March 24, 1847, p. 2.
[60] "Affairs in the Legislature," *New York Herald,* April 14, 1847, p. 4.
[61] "The Progress of Emigration," *New York Herald,* April 21, 1847, p. 2.

disabled by making an exception for those who were members of immigrating families, limiting the bonds only to those traveling alone. The new Emigration Board consisted of six gubernatorial appointees and four *ex officio* members, the mayors of New York and Brooklyn, and the presidents of the Irish Emigrant Society and German Society. The law established a pattern of rotating appointments in which two board members would be renewed or replaced every two years. According to Thurlow Weed's recollections, when it came "to fill the blank in the act with the names of commissioners," Weed claims to have met with city Democrat Andrew Carrigan at the house of State Senator Ira Harris, a prominent Anti-Rent Whig. In his most likely embellished retelling, Weed claims that he and Carrigan, without prior consultation, sat down and produced identical lists (in an earlier version, Weed says the only difference was that his list identical except that it had Carrigan's name as well).[62] Weed's account has the feel of the apocryphal, but there is little doubt that he did have great influence over the process as he did wield considerable patronage powers within the Whig establishment, even if it was more limited than usual under the administration of John Young, when conservative, pro-slavery Whigs momentarily gained the upper hand. [63]

Whether or not the story is true, it is easy to see how Weed and Carrigan might arrive on the same six men that Governor Young appointed as commissioners. As we shall see in Chapter Two, they were people of the highest social standing in the city, unquestionably selected with their capacity to exercise political and social influence in

[62] Thurlow Weed, *Life of Thurlow Weed including His Autobiography and a Memoir,* ed. by Harriet Weed (Boston: Houghton Mifflin, 1884), Vol. 1, pp. 141-142. The earlier version, which informed the latter, is "The Commissioners of Emigration: How the Board Came to Be Established," *New York Times, June* 16, 1865, p. 3.
[63] Glyndon G. Van Deusen, *Thurlow Weed: Wizard of the Lobby* (Boston: Little, Brown, 1947), pp. 150-153.

mind, as well as their ability to command bipartisan respect. They were most from the old merchant class and upper echelons of the professional class, mostly with experience in overseas mercantile endeavors and governing charitable institutions. Putting such respected men in charge would assuage suspicion and mistrust of this unprecedented new agency that expanded far beyond the traditional local framework of social welfare governance, making its authority vulnerable to challenge at every level.

If it succeeded, the Emigration Board would establish an innovative new administrative relationship between the immigrant and the State of New York. It maintained aspects of the old localized bonding and commutation system, but put them in the hands of state officials, and build new institutions that were for the benefit of the immigrant alone. Newcomers would have their own institutional social welfare network. Curiously, no one had envisioned an agency with statewide jurisdiction at the beginning of the reform effort. This innovation emerged out of the contingencies of the legislative process, namely the intransigence of upstate legislators against a city-focused body. In essence, a happy accident allowed for a much greater level of centralization and rationalization over immigration control than previously imagined, and a shift from governmental passivity toward the immigrant to one of active aid and assistance.

CHAPTER TWO: THE STRUGGLE FOR LEGITIMACY

When Governor John Young signed the Emigration Board into law on May 5, 1847, an editorialist for the *Albany Evening Journal*—likely Thurlow Weed himself, the architect of the bill's passage—lavished unqualified praise on it. "This Law takes the Stranger out of the hands and out of reach of those who lie in wait to prey upon him. It provides Guardians for the Immigrant, who, instead of plundering them, will take them by the hand, give them needed information, cheapen their expenses, and facilitate their movements"[1] Moses Yale Beach's conservative *New York Sun* struck a more cautious tone. "It remedies many but not all the defects of the system, and all cannot be remedied at the same time. We must see how the new law operates and then devise improvements if any are required."[2]

The *Sun*'s sober assessment proved closer to how the Board's tentative initial years of operation unfolded. From the start, the commissioners found the legitimacy of their authority tested at nearly every turn. Resistance to their authority came from a wide range of actors: other government agencies with conflicting agendas, city Democrats who resented state control over what they viewed as a municipal matter, local property owners who wished to keep immigrant institutions out of their neighborhoods, nativist politicians wishing to stir up anti-immigrant sentiment, shippers who resented the regime's fees and bonds, and emigrant runners and other exploiters who sought to preserve the status quo. In response to these challenges, the state legislature repeatedly adjusted the May 1847

[1] "Passage of the Immigrant Bill," *New York Tribune,* May 6, 1847, p. 1; reprinted from the *Albany Evening Journal.*
[2] "The Emigrant Bill," *New York Sun,* May 7, 1847, p. 2.

law to meet these numerous challenges, tinkering with its mechanisms to try to improve its capacity and effectiveness, but with mixed results.

The city government had appeared incapable of implementing meaningful reform of the immigration system before 1847. The Common Council's attempts at regulation went mostly unheeded, such as when it mandated all shippers to land immigrants at the pier at Vesey Street in 1844 and again at the one at Albany Street in 1845. It remained to be seen if a state executive agency—legally the commissioners' authority derived from the governor's office—would be any more successful than the Common Council in reigning in the unruly immigration system. The Emigration Board had a Sisyphean task before it, but little in the way of resources or manpower. Its greatest asset was having some of the most influential and respected men of the merchant and professional classes on as commissioners. The architects of the Board knew the Board could expect to make little headway with leaders who had considerable social and political capital to expend.

The following chapter explores how the commissioners faced these institutional, political, and legal challenges in trying to build up the administrative capacity needed to provide newcomers with basic assistance, in essence creating a small welfare state. It explores who the six appointed commissioners were, and how their reputations helped to consolidate authority. It applies the same analysis to the Board's hired officers, clerks, and doctors who would work under the commissioners' charge, especially the first "general agent," Robert Taylor, who would oversee daily operations. This segment takes up historian Margot Canaday's reminder to understand state-building through a "social history of the state" approach. As she argues, "We can see the state through its practices;

the state is "what officials do." And by this idea, she means not only the top-level officials like the commissioners, but "bureaucrats at all levels."[3]

From personnel the chapter moves to the Board's early operations and the development of its relationship with the Mayor's Office and the State Health Office. These relationships—especially with the Health Office—often proved tempestuous, but were nothing compared to the fierce resistance the Board encountered when it attempted to build new institutions. Owners of nearby dwellings and businesses feared the presence of immigrants would lower property values and introduce contagious disease into their neighborhoods. They used various strategies to block the Board's efforts, ranging from legal injunctions to arson. The Board's failed attempt to secure a landing depot for immigrants on Lower Manhattan's Hudson River shore provides a case study of this dynamic. The rest of the chapter then examines how federal, state, and municipal officials, and even private citizens continued to contest the Board's legitimacy through the early 1850s. The US Supreme Court decision known as the *Passengers Cases* in 1849, several hostile state legislative investigations into the Board's management, and clashes with municipal authorities like Mayor Fernando Wood and the municipal welfare agency known as the Board of Ten Governors exemplified the repeated attacks on the Board's legitimacy. The Board's inability to bring the wholesale exploitation of immigrants by runners and their ilk also served as a constant thorn in its side. Only with the establishment of the Castle Garden Depot, as detailed in Chapter Three, would the agency at last take on an air of permanent authority.

[3] Margot Canaday, *The Straight State: Sexuality and Citizenship in Twentieth-Century America* (Princeton, NJ: Princeton University Press, 2009), p. 5.

The men appointed as the first commissioners were well equipped to meet the daunting challenges faced by the new agency. All had attained "competency," meaning they were independently wealthy and had no need to earn a living. The architects of the Board conceived of this position for men in this position as the appointment came without compensation. Weed claims to have been looking for men "of high character, removed from partisan influence, and would devote themselves in this cause without other reward than the luxury of being useful…."[4] The position likely appealed to these men since many members of the mercantile and professional elites viewed themselves as the city's "moral stewards," and the new agency certainly reflected this vision. [5]

Each of the appointed commissioners belonged to multiple associations and organizations that served what we might now think of as quasi-public functions. The emigration commissioners also served on the boards of local charitable institutions, hospitals, universities, and were members of religious congregations, literary clubs, benevolent ethnic societies, and the powerful New York Chamber of Commerce. Through such networks, they exercised considerable influence over the drafting of legislation, regulatory enforcement, and other realms of public action. The architects of the new Emigration Board knew that the authority of the State of New York was too weak to compel action, particularly in the City of New York where Albany interference in local affairs was often resented. In order to establish authority, the Board needed to rely on the influence of highly respected individuals who could leverage influence within the city's elite associational networks.

---

[4] Thurlow Weed, *Life of Thurlow Weed* (Boston: Houghton-Mifflin, 1883), Vol. 1, p. 142.
[5] Sven Beckert, *The Monied Metropolis:* New York City and the Consolidation of the American Bourgeoisie, 1850-1896 (New York: Cambridge University Press, 2001), pp. 70-71.

William Havemeyer was perhaps the most recognizable name to the broadest range of New Yorkers, having just completed a term as mayor in May 1846 that had earned him a reputation for administrative efficiency and honesty. One account of his life even claimed that his integrity was the reason for his initial election. In the fall of 1844, Tammany Democrats heard that President-elect Polk was talking of Havemeyer as a possible Collector of the Port of New York, so Tammanyites quickly offered up Havemeyer for mayor since they deemed him too scrupulous for that exceedingly lucrative patronage office.[6] Havemeyer was also an active member of the German Society, and thus well versed in immigrant affairs.[7]

David C. Colden, a lawyer from an aristocratic family, had spent most of his adult life involved with philanthropic institutions, most notably with the House of Refuge for juvenile delinquents on Ward's Island. He also served as president of the St. David's Society, the Welsh benevolent society. His father Cadwallader Colden had been a federalist mayor of the city from 1818 to 1821, and a principal figure in the construction of the Erie and Morris canals alongside DeWitt Clinton.[8]

Robert Bowne Minturn may have surpassed even Havemeyer in overall prominence in some circles. He was one of the city's wealthiest and most distinguished shipping merchants, foremost among the "merchant princes." His firm of Grinnell & Minturn operated highly profitable packet lines between New York and Liverpool, which carried a great deal of the immigrant traffic, as well as sleek clippers built for fast access to the Pacific. Minturn was devoted to charitable endeavors to an extent that his peers

[6] "William F. Havemeyer," *New York Times,* Oct. 21, 1872, p. 8.
[7] Sven Beckert, *The Monied Metroplis: New York and the Consolidation of the American Bourgeoise,* 1850-1896 (New York: Cambridge University Press, 2001), p. 65.
[8] "Communications: The Late David C. Colden," *Home Journal,* May 11, 1850, p. 2.

found daunting. Diarist George Templeton Strong tartly observed that Minturn was "too good, *too much* merchant prince and liberal Christian, and glorified donor to charitable uses." He was known to dispense aid to the poor from his front door until he became involved with the founding of the Association for the Improving the Condition of the Poor (AICP), which applied a more disciplined and "scientific" approach to charity than previous practices.[9]

Jacob Harvey, a Quaker of Irish birth, emigrated to New York in 1816 with his fellow Quaker, Abraham Bell. Bell started a shipping firm with Harvey as his right-hand man, and by the 1840s, both had become wealthy. Harvey expanded into the maritime insurance business by that time as well.[10] Harvey was a natural choice as an Emigration Commission because of his dedication in coordinating charitable donations for Irish famine relief in late 1846 and early 1847. As secretary of the New York Irish Relief committee, he oversaw the remittance of funds and the shipping of aid to the Society of Friends' General Relief Committee in Dublin, one of the most effective relief agencies during the famine.[11]

James Boorman, like Harvey, was also a wealthy merchant who had emigrated to the United States, arriving in 1795 from England. Boorman apprenticed at the mercantile house of Bethune & Smith and then founded his own firm, Boorman & Johnson, which prospered by importing jute and linen from Scotland, iron from Sweden, and tobacco from Virginia. Aside from becoming an emigration commissioner in 1847, he also

---

[9] Roy Rozenzweig & Elizabeth Blackmar, *The Park and the People: A History of Central Park* (Ithaca, NY: Cornell University Press, 1992), pp. 25-26; the Strong quip is as quoted from this work.
[10] E.R.R. Green, Introduction to *The Harvey Papers: The Letters of Jacob Harvey, an Irish Merchant in New York, 1816-1846,* in the National Library of Ireland, Dublin, Microfilm Ed. (Wakefield, Eng: Micro Methods for the British Association for American Studies, 1970).
[11] David Sim, *A Union Forever: The Irish Question and U.S. Foreign Relations in the Victorian Age* (Ithaca, NY: Cornell University Press, 2013), p. 48.

became the first Vice President of the Hudson River Railroad, and was deeply involved with the construction of that line. Boorman also served as the president of the British Protective Society, a prominent immigrant aid organization.[12]

Gulian C. Verplanck, like David Colden, came from a family deeply intertwined with the history of New York. Of Dutch and Flemish ancestry, Verplanck's family had settled in New Amsterdam in the 1630s and received sizeable land grant from James II in what is now Dutchess County in the 1680s. That estate became the basis for the family fortune.[13] Gulian was born on Wall Street in 1786, attended Columbia College, and then apprenticed at law. He never practiced, but instead rose to prominence as a politician and man of letters simultaneously, traveling in the same circles as James Fenimore Cooper and Washington Irving, writing many admired treatises in law and theology. From the 1820s through the early 1840s, Verplanck served in the New York State Assembly, as a Congressman, in the New York State Senate, and even ran unsuccessfully for mayor of New York City in 1834, the first popular election for that office. In 1847, Verplanck, William Cullen Bryant, and other prominent intellectuals founded the Century Association, which soon became one of the most elite social clubs in the city.[14] He would serve on the Emigration Board from its founding until his death in 1870, as president from 1848 onward.

Despite his prominent reputation, Verplanck's convivial and dilettantish ways rubbed the driven puritanical merchant Robert Minturn the wrong way. The publicly

---

[12] New York Chamber of Commerce. *Portrait Gallery of the Chamber of Commerce of the State of New York* (New York: Press of the Chamber of Commerce, 1890), pp. 198-199; "Public Meeting on the Present Bonding System," *New York Herald,* Oct. 7, 1846, p. 2.
[13] Robert W. July, *The Essential New Yorker: Gulian Crommelin Verplanck* (Durham, NC: Duke University Press, 1951), pp.
[14] Thomas Bender, *New York Intellect: A History of Intellectual Life in New York City, from the Beginnings of Our Own Time* (New York: Alfred A. Knopf, 1987), p. 136.

pious do-gooder showed a nasty side in a private letter to Thurlow Weed when he discovered that Verplanck had been slated as a fellow commissioner in the initial May 1847 law: "How was V___k's name introduced? It would have been difficult in my judgment to have a found a more useless person for such a place."[15] Nonetheless, all of the members of the Board seemed to share the values of the city's merchant class, which seemed to encompass a genuine sense of moral stewardship. Furthermore, their shared experiences of far flung commercial relationships enabled them to see beyond local partisanship to envision a larger nation-building project, an endeavor on many Americans' minds as the war raged on in Mexico.

Two of the appointees had extensive political experience: Havemeyer as a mayor from 1845 to 1846, and Verplanck as a New York State Assemblyman and Senator, a Congressman, and candidate for mayor in 1834. Four of the appointees were Whigs, with Havemeyer and Boorman as the two Democrats, both very much independent from Tammany. Boorman, Harvey, and Minturn had become wealthy through mercantile enterprises and Havemeyer through sugar refining, while Verplanck and Colden had inherited considerable wealth. The role that Weed and other crafters of the bill viewed the commissioners in the light of a fading strain of elite civic republicanism: the belief that only men of property and independent means truly could envision the public good.[16]

---

[15] Letter from Robert B. Minturn to Thurlow Weed, May 1, 1847, Thurlow Weed Collection, Department of Rare Books, Special Collections, and Preservation, Rush Rhees Library, University of Rochester, Rochester, New York.

[16] The function of the virtuous citizen's property in the Anglo-Western republican tradition was "to give him independence and autonomy as well as leisure and liberty to engage in public affairs…." J.G.A. Pocock, *Virtue, Commerce, and History: Essays on Political Thought and History, Chiefly in the Eighteenth Century* (New York: Cambridge University Press, 1985), p. 109. For an overview of the embattled concept of republicanism in U.S. historiography, see Daniel T. Rodgers, "Republicanism: The Career of a Concept," *Journal of American History,* Vol. 79, No. 1 (June 1992), pp. 11-38.

Each appointed commissioner had experience with charitable work or in related institution-building capacities. Furthermore, they were not just wealthy, but exceedingly well connected politically and socially. Each was at the pinnacle of the antebellum sense of "associational" citizenship, which legal historian William Novak has called the "common law of status and membership." In the early republic, elite men were embedded within multiple associational networks, varying from business relationships, family connections, civic and political organizations, social clubs, etc., that gave them more privileges and access to government than their social inferiors. As Novak writes, "A person's actual bundle of total privileges and immunities was dependent not upon a single determination of whether or not one was a citizen but upon a whole host of differentiated positions, offices, jurisdictions, and civic identities." [17]

The Board's first meeting convened ten of New York City's most influential men in a dingy basement office of a building formerly used as an almshouse. No better quarters could be found since potential landlords feared that these tenants would attract a steady stream of immigrants, who in turn would bring the threat of contagious disease, disorder, and lower property values. Only through leverage exerted by the former mayor and *ex tempore* president of the Emigration Board, William Havemeyer, was the Common Council convinced to lease rooms in the east basement of the city's Old Almshouse, a narrow brick structure adjacent to City Hall used for public offices starting on May 17 (this site is now the Tweed Courthouse).[18] From this humble base of operations, the commissioners set about the difficult work of making the Board a

[17] Novak, "The Legal Transformation of Citizenship in Nineteenth-Century America," pp. 94-95.
[18] "Board of Aldermen," *New York Tribune,* May 18, 1847, p. 2.

functioning reality. Within the next decade, it would emerge from these lowly origins to become one of the largest and most complex public agencies in the city.

Within their first weeks of existence, the emigration commissioners set about hiring the salaried officials and medical staff who would carry out their daily business. Who the Board hired reveals much about the assumptions the city's mercantile and professional elites had about class and politics, and the rapidly changing political order. While an official body of state governance and not a private association, it nonetheless mimicked aspects a new wave of voluntary welfare organizations exemplified by the Association for Improving the Condition of the Poor (AICP), established in 1843. Older benevolent organizations simply dispensed charity, but as its name implied, the AICP took a more aggressive posture toward reshaping the lives of the poor, and brought a new management style to charity. Its head officers were from the city's wealthy business and professional elites. Its salaried corresponding secretary, Robert Hartley—a man born in England and raised the son of a farmer in rural upstate New York—oversaw the association's daily business. AICP hired agents of middle-class background, who, serving in a semi-professional capacity, visited the homes of the poor to pass judgment on who was likely to benefit from aid and who was incorrigibly debauched.[19] Like the AICP, the Emigration Board created a division of labor between the commissioners, who made executive decisions in weekly meeting meetings, and salaried middling functionaries, who carried out day-to-day functions. As the Board's operations expanded, it also hired wage laborers to carry out menial tasks.

[19] Paul Boyer, *Urban Masses and Moral Order in America, 1820-1920* (Cambridge, MA: Harvard University Press, 1978), pp. 86-89.

The six appointed commissioners were all unsalaried, able to serve since they had "attained competency" through their business careers, property holdings, investments, and (like Gulian Verplanck) inherited wealth. By contrast, the salaried officers, on the contrary, were mostly young men from the city's artisanal and clerical classes who possessed administrative competence but were also politically connected. While the Board stood slightly more Whig in orientation—reflecting the overall proclivities of the city's mercantile class—there was a genuine attempt to make it appear as bipartisan as possible, as reflected by the appointment of Democrat William Havemeyer as its first president. Havemeyer had served a much admired term as mayor in 1845-1846, but did not run for re-election since he was not "pliable enough for Wigwam leaders," according to one historian of Tammany.[20] Political connections certainly entered into the calculus in hiring decisions for "subordinate" clerks and agents, with party affiliation of slightly less importance.

As soon as the Board was established, letters poured into those who might have any influence over the hiring of the salaried officers. On May 9, the Catholic Bishop of New York, John Hughes, who had been a key supporter of the Board's establishment, wrote to Thurlow Weed, knowing Weed had the ear of Commissioner Robert Minturn. Hughes pled the case for hiring Bernard Casserly when he was informed that the "Emigrant Commissioners…will have occasion to engage persons in a subordinate sphere." Casserly's brother Eugene, was a prominent Tammany man who had been the City Corporation's Attorney earning a salary of $2,000 a year, and Bernard had worked in that office as well. With the election of a Whig mayor, the two Democrats were turned out, while around the same time, their father died, leaving the young brothers in the

[20] Gustavus Myers, *The History of Tammany Hall,* 2nd Ed. (New York: Boni & Liveright, 1917), p. 139.

position of supporting "a widowed mother & five young children."[21] The commissioners seemed to have been moved by this hard-luck story, as Casserly was hired as a clerk, and remained on the Board's staff for several decades. By contrast, former governor William Seward wrote a more traditional partisan patronage letter to Commissioner Gulian Verplanck in favor of the hiring Seth Hawley as the Board's agent in Buffalo. According to one Seward biographer, Hawley was a loyalist of the Seward-Weed branch of the Whig party.[22]

On May 10, the commissioners hired their most important salaried official, the Board's General agent and secretary, who would oversee day-to-day operations. Robert Taylor embodied the competency and political engagement that the commissioners viewed as essential for their subordinates, and his reputation for integrity, as well as his "workingman" artisan background, would contribute to the Board's claims to fairness and legitimacy. Taylor's career also offers a revealing case study of what Amy Bridges calls the city's rising "career politicians" from non-elite origins.[23]

Although a staunch Whig loyalist, Taylor had earned considerable bipartisan esteem in his role as Mayor's Clerk and Special Police Justice. Born in the city to English immigrants, he was apprenticed to a cooper in 1815 for roughly six and half years. After completing the apprenticeship, he worked as a cooper in the Cuban port of Matanzas, preparing casks of molasses. Taylor then returned to New York and worked in a distillery despite having a "dislike of the liquor business." He became politically active in 1833

[21] Letter from John Hughes to Thurlow Weed, May 9, 1847, Thurlow Weed Collection, Department of Rare Books, Special Collections, and Preservation, Rush Rhees Library, University of Rochester, Rochester, New York. Eugene Casserly would later be elected a US Senator from California.
[22] Letter from William H. Seward to Gulian Verplanck, Aug. 8, 1847, Verplanck Papers, Box 7, Folder 2, New-York Historical Society, New York, New York; Glyndon G. Van Dusen, *William Henry Seward* (New York: Oxford University Press, 1967), p. 108.
[23] Amy Bridges, *A City in the Republic: Antebellum New York and the Origins of Machine Politics* (1984, reprint, Ithaca, NY: Cornell University Press, 1987), pp. 74-75.

against the Democratic Party when "the excitement began in relation to the employment in the State Prisons as mechanical hands of business…."[24] The blurring of the line between what defined free and "unfree" during the economic upheaval of the 1830s and 1840s politicized many craftsmen like Taylor, who feared the degradation of the value of their own work.[25] Taylor served as secretary of the Mechanics' General Committee, and then in 1837, the Whig-majority Common Council appointed him a captain of the City Watch. A year later, he was elevated to the newly created position of Special Police Justice.[26]

Taylor was later appointed as Clerk to the Mayor, a position appointed by the Council despite its name.[27] What Taylor did in this position made him an obvious choice for general agent of the future Emigration Board. As noted in the previous chapter, he made a discovery that destroyed all confidence in the system of bonding and commuting system that theoretically funded the care of indigent and sick aliens, discovering John Ahern, his predecessor as Mayor's Clerk, had absconded with large sums form the commutation fund, and that James H. Ward, who administered the "hospital tax" fund for the state Health Office, had done likewise.[28] Taylor left the Mayor's Clerk position in December 1842, but then was reappointed Special Police Justice for four years. In May 1845, new Democratic mayor William Havemeyer asked him to become chief in the

[24] Robert Taylor Diaries, 1824-1847, Vol. 3 (Feb. 5, 1846 – Aug. 1, 1847), Manuscripts and Archives Division, Stephen A. Schwarzman Building, New York Public Library, pp. 1-3.
[25] For an overview of the political controversies over contracted prison labor in the antebellum period, please see Chapter 6: Convict Labor, Free Labor, and Gresham's Law in Jonathan A. Glickstein, *American Exceptionalism, American Anxiety: Wages, Competition, and Degraded Labor in the Antebellum United States* (Charlottesville, VA: University of Virginia Press, 2002), pp. 163-182; and Chapter 2: Contractual and Penal Servitude and Its Discontents, 1818-1865 in Rebecca M. McLennan, *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State* (New York: Cambridge University Press, 2008), pp. 53-86.
[26] Taylor Diaries, p. 3.
[27] Ibid, p. 4.
[28] Ibid., p. 4.

newly professionalized police force, but Taylor claimed that there was too much furor among the Tammanyites, so the offer was rescinded.

In April 1846, he ran as Whig candidate for the mayoralty, but lost to Tammany Democrat Andrew Mickle, well-to-do tobacco merchant. Taylor retired from police justice position in December 1846, and had enough money to purchase a typographical foundry. In late December, he made a trip to Albany to meet with Whig governor-elect John Young, and returned again in February for reasons he does not reveal in his diary. On April 16, 1847, the newly elected Whig mayor, William Brady, asked him to be Clerk to the Mayor, but Taylor refused the position since it would interfere with his new business. Surprisingly, he did accept the offer on May 10th by the Emigration Board, "having, unsolicited, appointed me their General Agent at the rate of Twenty-five hundred dollars a year…."[29] The salary, at a time when even the city's most highly skilled craftsmen made below $600 a year, was perhaps too good to pass up.[30]

Ten years before, Taylor could not have been considered a viable Whig candidate for mayor. He was neither independently wealthy nor socially integrated into the mercantile and professional elites. Although he may have been seen as fit for the mayoralty, the architects of the Emigration Board still did not view him as a potential emigration commissioner; the mentality that only men of wealth could act in a truly disinterested fashion still dominated. Taylor's financial position better suited him for the salaried position of general agent. Initially the Board met weekly, but less frequently later. At these meetings, they would make the decisions that the paid staff under the

[29] Ibid., pp. 4-5, 39-45; information about his run for mayor is from "Death of Justice Taylor," *New York Tribune,* Dec. 30, 1847, p. 1.
[30] Sean Wilentz, *Chants Democratic: New York and the Rise of the American Working Class, 1788-1850* (New York: Oxford University Press, 1984; 2004), Table 14: Monthly Wages and Sexual Composition of the Work Force, Selected Trades, New York City, 1850, by Trade, p. 405.

Taylor would carry out in a relationship not unlike one between a board of directors and a CEO of a modern corporation. Over a decade later, the president of the Emigration Board, Gulian Verplanck, made this organizational structure clear while giving testimony to a state legislative committee investigating certain charges against the agency. When asked about how he personally knew how daily affairs were managed at the Board's Castle Garden Depot, he replied, "I do not know personally; I know as the president of a bank knows what is done by his officers."[31]

The salaried officers who worked for the Emigration Board came into daily contact with immigrants, which during the age of sail carried great risks to one's own health. Unfortunately for Taylor, he came down with a bout of "intermittent fever" in August 1847 that was undoubtedly contracted while carrying out his duties. The disease turned out to be typhus. He seemed to recover in the fall, but his condition worsened in December 1847, and he died by the end of the year. In their first annual report published in 1848, the commissioners lavished praise on him, "From the first organization of the Board, Mr. Taylor was indefatigable in aiding to commence and carry out the arduous duties of the commission, and was of invaluable assistance, in meeting with his sound judgment, great practical experience, and energetic spirit, the pressing emergencies that arose. Assiduously devoted to his duties, and untiring in his zeal for the benefit of the emigrant, he fell a martyr to his fearless benevolence."[32]

Unfortunately, this tribute would become almost boilerplate for future underlings and medical staff under the Emigration Board who met the same fate on an all too regular

[31] New York State, "Majority Report of the Committee Appointed to Investigate Certain Charges against the Commissioners of Emigration," *Documents of the Assembly of the State of New York,* No. 53, Jan. 18, 1859, p. 4.
[32] New York State, "Report of the Commissioners of Emigration," *Documents of the Senate of the State of New York,* No. 47, Feb. 24, 1848, p. 5.

basis. Indeed, shortly after Taylor's death in early 1848, the physician and superintendent of the commissioners' new facilities on Ward's Island, Dr. John Snowden, also succumbed, apparently of typhus as well. The first report of the Emigration Board observed that several other employees had been sickened, symptomatic of "peculiar exposure to which all connected with the commission have been, and must continue to be, more or less subject." The report ended expressing the hope that new methods of ventilation and purification at the Ward's Island hospital would diminish the danger, but it is nonetheless clear that the salaried staff of the Emigration Board faced much greater health risks than the commissioners themselves.[33]

Overall, in their first eight months, the commissioners paid out over $4,200 in salaries to their staff in their Manhattan office and in the Ward's Island hospital and refuge.[34] By 1849, the *Manual of the Corporation of the City of New-York* listed the Board as having ten employees based in their Old Alms House office: one general agent, one assistant, a bookkeeper, four clerks, a messenger, and two coachmen.[35] By comparison, wages and salaries the Board paid less than a decade later attest to the vast expansion of the agency's human capacity. Compared to the meager $4,200 in salaries in 1847, in 1856 the Board paid out roughly $60,000 in both salaries and wages for workers in Manhattan, Staten Island, and Ward's Island facilities, and over $4,000 for its part-time agents in cities across the state.[36] The Board's expansion in ensuing years also increased its political clout as it had many more salaried positions to dispense.

---

[33] Ibid., p. 5.
[34] Ibid., p. 4.
[35] D.T. Valentine, *Manual for the Corporation of the City of New York for the Year 1849* (New York: McSpedon & Baker, 1849), p. 55.
[36] New York State, "Annual Report of the Commissioners of Emigration for the Year 1856," *Documents of the Senate of the State of New York,* No. 80, Feb. 17, 1857, Appendix, pp. 34-47.

While building their own agency's capacity, the commissioners also worked toward systematizing the Board's relationships with the other government agencies with which its business was deeply intertwined. These included the Mayor's Office and the State Health Office. The Board and the Mayor's Office worked closely together administering a modified version of the old bonding and commutation system.[37] For the bulk of passengers who were unlikely to become public charges, the master was required to pay a "commutation fee" that in 1847 was set at $1.00 to be paid to the Mayor's Office. Each day, a clerk would then turn over these funds to the City Chamberlain, the overseer of all city government monies, who would then deposit the money into the Emigration Board's chosen bank account. Shippers no longer had the option of posting a bond instead of paying the fee as in the pre-1847 system, but bonds did not disappear entirely. Board officials still demanded bonds for individuals who were physically or mentally disabled and were traveling alone without the support of a family. They also applied to people known to be "paupers," although developing criteria for this status proved difficult; one commissioner wrote that this could only be determined through a case-by-case inspection.[38]

Records from the Mayor's Office demonstrate that the issuance of bonds was indeed relatively rare during the early years of the Emigration Board, posted for only a tiny percentage of the overall total of those arriving. During the prime of the sailing season in the summer of 1849 under Mayor Caleb Woodhull's administration, there were

[37] A "joint and several bond" is a bond in which the principal is guaranteed by at least two obligors.
[38] In an 1851 letter, *ex officio* commissioner and president of the German Society, Ferdinand Karck, wrote a letter to the president of the Emigration Board, Gulian Verplanck, responding to Verplanck's request in an earlier meeting for him to find a satisfactory definition for "pauper." Karck balked at providing a ready answer, instead offering that "according to my best opinion, I am for deciding pauper cases by personal inspection or examination." Letter from Ferdinand Karck to Gulian Verplanck, March 17, 1851, Verplanck Papers, Box 5, Folder 2, New-York Historical Society, New York, New York.

bond requests for fourteen individuals in June, twenty-nine in July, and twenty-one in September. This was in a year when roughly 213,000 alien passengers arrived in the port. The reasons for bond requests varied, but not surprisingly most had to do with some sort of visibly apparent physical disability: "Crippled," "blindness," "weak eyes," "one leg," "broken leg," "aged & infirmed," "lame," "curvature of the spine," "deformed," "club foot," "one eye," and "consumption" were typical. Other reasons included being orphaned (in the 1849 outbreak, cholera orphaned several children during the course of one voyage), or being an "idiot" or "insane."[39] A few deemed "paupers" or "name doubtful" also prompted requests for bonds. In several cases, bonds were excused for reasons not stated. These letters were disproportionately issued to the most influential and respected shipping firms, like Grinnell & Minturn and Fox & Livingston.[40]

The commissioners' relationship with the Mayor's Office was relatively smooth in the early years, but its relationship with the State Health Office was another matter. The May 1847 law created a joint mandate between the two agencies to administer the Marine Hospital and Quarantine Station on Staten Island. Its unclear wording on how the two agencies would share responsibilities led to considerable confusion and infighting, although the intention seemed to make the Emigration Board the supervising authority. Also confusing jurisdictional issues was that quarantine facilities treated not only alien immigrants but US citizens as well, including passengers returning home and crewmembers. The Emigration Board had no authority over non-immigrants while the Health Office obviously did. The separate funding streams for the two agencies reflected this distinction: the Health Office collected the "hospital tax" for everyone in a vessel

[39] Woodhull Papers, 1849-1852, Office of the Mayor, 1826-1876, Project Roll #2, Master Negative # 1075, New York City Municipal Archives, New York, NY.
[40] Ibid.

regardless of citizenship status; the Mayor's Office collected the Emigration Board's "commutation fee" only for alien steerage passengers.

The Health Office predated the Emigration Board by many decades, but its reputation had not been burnished by time, being known mainly as an instrument of political patronage and venality. Its principal officers were infamous for becoming rich men during their tenures. They not only collected a head tax for each passenger, sailor, and officer in each vessel, but also were empowered to demand that certain cargoes believed to carry infectious particles known as "fomites" be unloaded and disinfected.[41] The Health Office charged fees for these procedures, and officials were entitled to keep a percentage or "moiety" (a similar system reigned in the federal customhouse) of these fees. This system thus gave the officials a powerful incentive to enforce quarantine laws stringently. Merchants despised the most venal of the Health Office inspectors for the excessive fees that they charged, the delays they caused, and the favoritism they showed certain packet lines. For obvious reasons, the Health Office men viewed the Emigration Board's oversight as a potential threat to their lucrative sinecures.

The Emigration Board also worked closely with county welfare authorities outside of the city but within the state. It was legally obligated to "provide for the maintenance and support" of any commuted or bonded alien who would become "a charge upon any city, town or county, of this state" for a five-year period after the individual had landed, the same period required before naturalization. This facet of the Board's operations likely made it the first statewide public welfare agency in the US, and

[41] John Duffy, *A History of Public Health in New York City, 1625-1866* (New York: Russell Sage Foundation, 1968), p. 352.

certainly the first government office devoted entirely to immigrant affairs.[42] The relationship between the Board and upstate county welfare authorities worked well as long as the commutation fund remained robust, with the occasional filing of fraudulent claims being the only complication. By the mid-1850s even this function became highly contested as the Board's fiscal difficulties made it impossible for it to meet all of its upstate obligations, necessitating the commissioners to withhold payments.

In May and June 1847, the commissioners felt great urgency to build their capacity quickly because of a potential public health crisis, and it was during this episode that relations with the Health Office began to deteriorate. In addition, the commissioners encountered their first episode of the extreme resistance that hostile communities could muster against new institutions for immigrants. Thousands of impoverished and sickly Irish immigrants were arriving in the Port of New York each week as the famine migration accelerated. Earlier in the decade, most newcomers were comparatively well off, having emigrated only after careful planning and saving. As the famine crisis crested, many fled out of desperation. These arrived indigent, malnourished, and often sick. Most alarming was the high rate of the highly contagious and often fatal "ship fever"—typhoid—among them. By late May, the city's dailies published reports of an unfolding disaster at Quebec's quarantine station at Grosse Isle in the St. Lawrence River, where typhoid ran rampant. One piece noted that by May 23, the Grosse Isle Hospital already had 436 fever patients, and "the probability is that the number will augment daily."[43] By

[42] David M. Schneider, *The History of Public Welfare in New York State, 1609-1866* (Chicago: University of Chicago Press, 1938), pp. 306-307.
[43] "Emigration to Quebec—Typhus Fever," *New York Tribune,* May 29, 1847, p. 2.

May 31, ships arriving at Grosse Isle were regularly reporting between twenty and fifty deaths from typhoid during the voyage.[44]

The May 5, 1847, law complicated jurisdiction over the influx of sick immigrants because it created a shared jurisdiction over the three hospitals at Quarantine. It was often unclear where ultimate decision-making authority lay, with the Emigration Board's officers or with those of the Health Office. The state legislature had established the Health Office in 1796, and it was comprised of three chief officials: the Health Officer, the Resident Physician, and the Health Commissioner. The first was a doctor in charge of inspecting incoming vessels and serving as head physician at the Marine Hospital; the second was the doctor in charge of tracking down contagious disease throughout the city; and the third was the administrative officer who collected the "hospital money" or "head tax" from all passengers and sailors and handled all financial aspects of the Marine Hospital's operations.[45] The May 1847 law creating the Emigration Board stated that the head tax collected by the Health Office would be put under the Emigration Board's control and that they could use it to make improvements at Quarantine, but it said little about how day-to-day decisions about daily operations should be made.

Quarantine was located on the Staten Island shore of the Narrows, where vessels anchored briefly to allow the Health Officer to board for an inspection. If the Health Officer gave a ship a clean bill of health, it could proceed across the Lower Bay to Manhattan's piers. Passengers sick with contagious diseases would be treated at one of Quarantine's three small hospitals, which together only had a total of 850 beds in 1846 and early 1847. Doctors would do their best to segregate those with contagious illnesses,

[44] "New York Correspondence," *Daily National Intelligencer,* May 31, 1847, p. 3.
[45] John Duffy, *A History of Public Health in New York City, 1625-1866* (New York: Russell Sage Foundation, 1968), pp. 279-280.

but disease nonetheless spread throughout the Quarantine facilities as doctors and staff traveled from building to building.[46] Previous to 1846, all steerage passengers had been forced to disembark and be inspected at Quarantine and then brought to Manhattan by steamboats or lighters, but this practice was discontinued that year, in part to limit passengers' exposure to disease, but also since immigrant runners would often take hold of them there.[47]

Physicians in the Health Office were often presumed to be party hacks of dubious medical talent. Health Officer Dr. A. Sidney Doane served at Quarantine from 1840 to 1843, and was most likely removed from office when the governorship changed hands from Whig William Seward to Democrat William Bouck. A Whig operative looking to have Doane reappointed with the re-election of a Whig governor in 1847 wrote to the party fixer, Thurlow Weed, to make a case for the doctor. "Doane is very poor. He generously gave to the party his earnings while in office & he left it poorer than when he took it, for he had lost his practice. He came back to the city with the very worst possible professional character—that of being a political doctor. He has been struggling against the prejudices of his former patients and with all his talent, his learning & his industry he has done but little more than support his family."[48] The American medical profession on the whole suffered from a less-than sterling reputation at this time, so gaining notoriety as a political hack could be entirely fatal to a doctor's ability to make a living. The unfortunate Doane ultimately was reappointed in 1850, but in January 1852, he

[46] Ibid., 336.
[47] "Part Second: A Critical Analysis – Art. XII: Report of a Special Committee of the House of Assembly of the State of New York on the Present Quarantine Laws," *New York Journal of Medicine and Collateral Sciences,* Vol. 7, No. 20 (Sep. 1846), p. 219.
[48] Letter from James Bowen to Thurlow Weed, Feb. 12, 1847, Thurlow Weed collection, Department of Rare Books, Special Collections, and Preservation, Rush Rhees Library, University of Rochester, Rochester, New York.

contracted typhoid from sick steerage passengers on the packet ship *Great Western,* and expired shortly thereafter.[49]

In May 1847, the commissioners, aware that the facilities at Quarantine were inadequate for the season's expected volume of immigrants, took it upon themselves to create new facilities outside of Staten Island that would also have the virtue of being completely under their jurisdiction. The commissioners aimed to have a place where the indigent and those with noninfectious ailments could be housed, leaving the treatment of contagious patients to the doctors of the Health Office at the Marine Hospital.[50]

The commissioners first set their sights on a set of buildings known as the "Long Island Farms" in a rural area just across the East River in what is now Long Island City. Up until a few months before, the city's Almshouse Department had used these structures to house and teach skills to orphaned children.[51] After they obtained a lease, the inhabitants of the nearby villages of Newtown and Astoria sent a remonstrance to the commissioners, and receiving no response, filed a legal injunction against the buildings being used to house sick immigrants. Some of the residents feared that typhoid-stricken inmates might arrive before the injunction could be obtained, and after a public meeting on the evening of May 26 in the nearby hamlet of Ravenswood, they took matters into their own hands. Roughly forty regrouped at the Long Island Farms buildings and started tearing them down, finishing the job by setting them aflame, burning all to the ground.[52]

After the conflagration, President Polk responded to the urgent need for more space of the commissioners for space to house sick immigrants. He allowed them to use

---

[49] "Death of A. Sidney Doane," *New York Times,* Jan. 28, 1852, p. 2.
[50] Friedrich Kapp, *Immigration and the Commissioners of Emigration of the State of New York* (New York: The Nation Press, 1870), pp. 125-127.
[51] "New York Correspondence," *Daily National Intelligencer,* May 31, 1847, p. 3.
[52] "The Long Island Farms," *New York Evening Post,* May 27, 1847, p. 2.

"commodious public buildings" used by US customs officials at Quarantine on Staten Island.[53] And by July, Commissioner Robert Minturn leased the Board land he had previously purchased on Ward's Island in the East River. Workers hired by the Board quickly renovated an abandoned factory building and built a new wood-and-brick dormitory connected to it, which together became refuge for indigent immigrants. Soon thereafter, the Board constructed a hospital for those with non-communicable diseases and ailments.[54] The citywide typhoid scare abated in mid-June; by the twelfth, an *Evening Post* editorial praised the new Board's response. "Since the Commissioners of Emigration were invested with power they have been indefatigable in their exertions to rid the city of this disease, and, we believe that it has been nearly eradicated…."[55]

The Quarantine would be a source of frustration and dysfunction for decades to come. Constant tensions between the Emigration Board and the Health Office continued, and as the villages around the Quarantine compound became more densely settled, Staten Islanders became more enraged as the state legislature dragged its feet on removing the compound. The animosity toward the facility contributed to a vibrant nativist and anti-Tammany sentiment in Richmond County in the late 1840s and early 1850s.[56]

On October 11, 1847, the State Assembly established a select committee to investigate "frauds and impositions upon emigrants," which was clearly a fact-finding mission to build a case for expanding the powers of the commissioners. The legitimacy of the Board remained highly vulnerable to the vagaries of partisan politics, and in 1847,

---

[53] Untitled, *Richmond Enquirer*, June 8, 1847, p. 1; reprinted from the *New York Courier & Enquirer.*
[54] Robert Bowne Minturn, *Memoir of Robert Bowne Minturn* (New York: Anson D, F. Randolph & Company, 1871), pp. 59-60.
[55] "Health of the City," *New York Evening Post,* June 12, 1847, p. 2.
[56] Arthur Hollick, "An Interesting Old Publication," in Staten Island Institute of Arts and Sciences, *Proceedings of Staten Island Institute of Arts and Sciences* (New Brighton, NY: Staten Island Association of Arts and Sciences, 1916), Vol. 5 (Oct. 1913-May 1915), pp. 100-102.

especially to volatile rift within the New York Democracy. The controversy over the Wilmot Proviso and slavery in the Western territories inflamed the division between the conservative pro-slavery Hunkers who dominated Tammany leadership, and the free-soil Barnburners who were generally more reform-minded and independent from Tammany.

Tammany Hunkers viewed the Emigration Board with hostility. To them, the new agency was an imposition on city authority engineered by upstate anti-slavery Whigs and Barnburners, the incipient coalition that would create the Free Soil Party in 1848. The Hunkers likely saw the Board, in its mission of facilitating the movement of hundreds of thousands of immigrants out to the Western territories, as an instrument to secure a "free soil" future. Furthermore, the president of the Board, William Havemeyer, was a local Barnburner leader; his independence from Tammany was a factor in why he did not run for re-election as mayor after his completing his term in 1846.[57]

Three upstate Whigs, one city Democrat, and one upstate Democrat comprised the legislative select committee. The Democrats controlled the State Senate, but in the Assembly, Whigs had majority of seventy-two to fifty-six.[58] A few days after the select committee was formed, Assemblyman Wilson Small, a prominent Tammany Hunker, put forth a bill that proposed a raft of reforms to improve "the landing of emigrants aliens," but all under the auspices of the municipal government, with no mention of the Emigration Board. These included licenses for boarding-house and forwarding-office runners and the requirement that they wear a plate that said "licensed runner"; immigrant-boarding-house owners would also have to be licensed and post their rates prominently in

[57] Gustavus Meyers, *The History of Tammany Hall,* 2nd Ed. (New York: Boni & Liveright, 1917), pp. 140-141.
[58] Franklin B. Hough, *The New York Civil List* (Albany, NY: Weed, Parsons & Co., 1858), pp. 148, 232. Hough's work provides districts; party affiliation was obtained through newspaper research.

multiple languages; passage brokers were required to maintain an office and post a bond for $500 to the mayor as a guarantor of the proper behavior of their business; and the mayor would be required to set aside an enclosed dock for the landing of immigrants, which all shippers would be compelled to use.[59]

Small's bill did not get much play in the Whig-dominated Assembly, but several of his ideas seem to have made their way into the bill recommended by the select committee. The latter issued its report on December 6, 1847. It revealed that the upstate members were taken aback by what the scale of the system of exploitation that their investigative trip to New York City exposed: "Your committee must confess, that they had no conception of, nor would they have believed the extent to which these frauds and outrages have been practiced, until they came to investigate them."[60]

A significant amount of testimony dealt with fraudulent boarding-house practices. One witness testified that a boarding-house runner, once having an immigrant under his charge, typically would represent the cost of room as a mere six pence a night with a meal costing the same. But the witness asserted that immigrants were charged never less than two shillings a night (or twenty-four pence), and as much as a dollar a meal (five shillings or 60 pence). Immigrants refusing to pay the inflated bill would have their luggage held hostage until they did, or would have to abandon it. [61] The majority of the deponents, however, focused on scams involving ticketing for inland passage, including overcharging for steamboat, canal, and railroad fares, and baggage fees as well. The

[59] "Synopsis of an Act for Regulating the Landing of Emigrants Aliens in the Port of New York," *New York Tribune,* Oct. 16, 1847, p. 3.
[60] New York State Assembly, *Report of the Select Committee Appointed by the Legislature of New-York to Examine into Frauds upon Emigrants* (Albany, NY: C. Van Benthuysen, 1847), p. 2.
[61] "Testimony of R. Schoger, New York State Assembly, *Report of the Select Committee,* Appendix: "Testimony, &c.," p. 15.

committee obtained a schedule of fares from an apparently legitimate forwarder that showed rates to various destinations within the US that closely correlated cost with distance. For example, fares to Albany and Troy were a mere $1.50, Buffalo $3.00, Cleveland $5.50, and distant Milwaukee $9.50. As the testimony revealed, the worst forwarders were charging as much as $10 to Buffalo. The most vicious runners sold entirely fraudulent tickets of no value. Some would represent tickets as full passage to Buffalo that were only valid through Albany. Others would charge cabin fare for a canal boat when the ticket was for deck passage.

The select committee formulated a bill that incorporated several of the reforms that Wilson Small had proposed, but put them under the jurisdiction of the Emigration Board rather than municipal authorities. It authorized the commissioners to lease or purchase a dock or pier for landing immigrants, and compelled shipmasters or consignees to land any alien passengers, steerage passengers, and second-class passengers at that place, with a $100 fine for violations. Like Small's bill, it required licenses for immigrant boarding houses, runners, and passenger forwarders, but also forbid boarding houses from putting any liens on baggage. In addition, the bill forbade city or state government employees from engaging in the passenger-forwarding business.[62] It proposed expanding the power of the Board even further, giving the commissioners complete control of Quarantine, and abolishing the position of Health Commissioner, the administrator of the head tax money. In response, Horace Greeley's *Tribune* warned that it was a grave mistake for non-medical men to take charge of a hospital.[63] In part to assuage these fears,

[62] Ibid, pp. 9-13.
[63] "Emigrant Commission and Quarantine," *New York Tribune,* Dec. 7, 1847, p. 1.

the commissioners appointed noted health reformer Dr. John H. Griscom as their general agent after the death of Robert Taylor.[64]

The legislature did not have time to digest the full scope of the report and act on its full range of suggestions before the end of the session on December 15, 1847. But on the last day, it did pass a more limited bill. The new law did not abolish the Health Office as proposed in the select committee's bill. Instead, it turned control over all facets of the Marine Hospital's operations to the Emigration Board excepting "the sanitary treatment of inmates," which remained the purview of the Health Office. The state comptroller was to render an account of the Marine Fund—the money collected from the hospital tax—and turn it over to the Emigration Board, who would take control of these monies. In addition, the law vested the emigration commissioners with the same powers as the city's commissioners of the almshouse in contracting out poor children in its institutions as apprentices or servants. Lastly, in the case of children who had been orphaned during the passage to New York or at the Marine Hospital, the Emigration Board could take charge of the property of the deceased parents and sell it off to defray the cost of caring for the dependent orphans.[65]

Rather than lessening tensions, the new law fanned the flames between the two agencies. As the commissioners complained in their annual report for 1848, the situation created "difficulties" between the Board and the Health Officer "which could not but be detrimental to the interest of the emigrant, and interfere with the harmonious and

[64] "Report of the Commissioners of Emigration," *Documents of the Assembly of the State of New York*, 71st Session (1848), No. 47, Feb. 24, 1848, p. 5.
[65] "Laws of New York," *Troy Daily Whig,* March 9, 1848, p. 2.

successful action of the establishment."[66] Partisan tensions likely informed the situation as the incumbent Health Officer, Dr. Henry Van Hovenburgh, was an upstate Democrat and career Tammany "political doctor." The Common Council appointed him almshouse resident physician of Bellevue Hospital in 1835. He was made Deputy Health Officer in 1838 before being appointed by Governor William Bouck in 1843, and served out multiple terms through 1848. Van Hovenburgh's regime had been formed when the post was regarded as one of the premier patronage plums among state offices.[67]

Nonetheless, within its first eight months of operation, the Emigration commissioners had made significant strides toward realizing some of their most immediate goals. Their agents had started inspecting arriving ships; built a hospital and refuge for the immigrant poor, sick, and injured on Ward's Island; began funding the care of indigent aliens in upstate county almshouses; took on oversight of the Quarantine despite resistance from the Health Office; provided financial assistance to those who lacked enough money to pay the full fare to their ultimate destinations; and covered burial costs of roughly 150 immigrants who died in their care. From May to December 1847, they collected commutation fees for just shy of 130,000 immigrants, and the new agency provided some form of direct assistance to over 10,500 people, or about 12 percent of aliens who had arrived.[68]

Despite making these strides in building the capacity to guard public health and to provide medical care and financial assistance to immigrants, the Emigration Board made little progress in combating the widespread exploitation of immigrants in the Port of New

---

[66] *Report of the Commissioners of Emigration of the State of New York, Made to the Legislature, January 22, 1849* (Albany, NY: Weed, Parsons & Co., 1849), p. 13.
[67] The biographical material on Van Hovenburgh is from Alphonso T. Clearwater, ed., *The History of Ulster County New York* (Kingston, NY: W.J. Van Deusen, 1907), pp. 498-499.
[68] Ibid., Tables A, B, C & D, pp. 7-8.

York and in cities along the state's interior routes to the West in its initial years of operation. Indeed, exploitation upstate seemed to be getting more pervasive and organized. An August 1847 report in the *Albany Atlas* noted that two passenger local forwarding firms, Smethurst & Co. and Swiftsure Transportation Co., routinely overcharged for baggage and detained immigrants who were unable to pay. One contingent of Dutch immigrants was charged for 15,000 pounds of extra luggage.[69] In New York, runners were aggressive as ever in the immediate years after the Emigration Board's founding. A *Herald* account from December 1849 noted that a band of runners jumped on board the packet ship *Susquehanna* from Bremen as it came alongside Burling Slip. The captain ordered the runners off the ship, and they left. After a short interval, they returned with reinforcements and beat the captain and crew savagely.[70] The commissioners employed a small staff of agents in New York to greet incoming vessels and attempt to steer newcomers away from runners, but this method benefited very few individuals within the human tidal wave crashing upon the wharves and piers. The Board also hired a few part-time agents in major upstate cities, but the effect was similar. No substantial curbing of these abuses would occur in the port until the Emigration Board established the Castle Garden Emigrant Depot in 1855. Upstate conditions would improve with the completion of two trans-state rail lines: the Erie in 1851 and New York Central in 1853. Unlike the canal boat lines, these conveyances offered far less opportunity for scheming middlemen to interact with immigrants.

One of the most significant recommendations of the legislative report from the fall of 1847 was that the Emigration Board should acquire a protected dock or pier for the

[69] "Case of Extortion Upon Immigrants," *Albany Atlas,* August 18, 1847, as reprinted in the *Brooklyn Eagle,* August 20, 1847, p. 2.
[70] "City Intelligence: Emigrant Runners," *New York Herald,* December 1, 1849, p. 1

landing of all immigrants. In March 1848—the same time Verplanck requested the emergency appropriation—a bill to authorize this measure and several others suggested in the fall 1847 report was working its way through the legislature. Democrats used the situation to hold the bill hostage temporarily, but Whig majorities were able to secure the funds, and see the bill to final passage on April 11.[71]

The new law required all immigrants, steerage passengers, and second-cabin passengers to be landed at the chosen site, putting them out of reach of the runners and scammers. (First-class cabin passengers were exempted from landing at the designated site; there was little risk of someone who could afford first-class cabin fare becoming a pauper.) In addition, the act also put the approval of who was allowed to board vessels at Quarantine in the hands of commissioners' agents in hopes of eliminating runners' practice of bribing Health Office agents for access to ships anchored in the Narrows. It required all steamboat and lighter proprietors who wished to convey passengers and their baggage from Quarantine or from the harbor to obtain a license issued by the commissioners, and gave the commissioners the right to revoke such licenses. Anyone landing immigrants at any other pier would be subject to a fine of $100.[72]

The April 11, 1848, law also took an aggressive regulatory stance toward immigrant boarding houses, runners, and passenger forwarders, setting up similar provisions to the earlier municipal laws of this type. In addition, it also set up a similar statewide system of licensing, bonding, and fines for runners and passage brokers, demanding that the latter have a physical office and post rates for various destinations in the above listed languages. Lastly, the law forbade any government employee—federal,

[71] "The Memory of John Quincy Adams, Etc." *New York Herald,* Mar. 27, 1848, p. 4; "The New Emigrant Act," *New York Herald,* April 13, 1848, p. 1.
[72] "The New Emigrant Act," *New York Herald,* April 13, 1848, p. 1.

state, or municipal—from being engaged in the passenger forwarding trade (under penalty of $100 to $300), and required the emigration commissioners to swear an oath annually that each person was in no way involved with or profited from the business of forwarding immigrants into the interior.[73]

The law set out to create an extensive and disinterested regulatory apparatus overseen by the Emigration Board that assumed the cooperation of other local, state, and federal authorities. Even if this assumption was overly optimistic, the system itself might have had a chance of at least partially operating as intended by legislators and the Emigration Board if a central landing depot was secured. Such a site would act as the lynchpin of any regulatory system, allowing the commissioners to protect and control the influx of newcomers in an unprecedented manner. Unfortunately the seemingly simple task of obtaining a site for a depot would prove far more arduous than anyone could have expected.

The April 11, 1848 revision of the Board's founding law specified that the commissioners were empowered to establish a permanent and enclosed landing site for immigrants, and have the power to compel shippers to land all steerage passengers there. The city government previously attempted to require masters of immigrant vessels to land their passengers at one dedicated pier, but the law proved unenforceable earlier in the 1840s due to a lack of law enforcement capacity and political will. In 1848, the commissioners chose to focus on acquiring an abandoned War-of-1812-era fortification at the end of a pier at the foot of Hubert Street on the Hudson River known as the "North

[73] *Ibid.*

Battery."[74] It was no longer in military use and had become property of the municipal government. The commissioners viewed it as ideal because the fort could be easily converted into a depot, and the pier was large enough to accommodate several ships. The ensuing fight over the pier revealed much about the formidable challenges the commissioners faced in creating basic infrastructure needed to carry out their mandated mission, as well as how sensitivities over private property clashed with prerogatives of public welfare in the city of the late 1840s.

The controversy began on Monday, May 8, 1848, the last day in office for a Common Council with a sizeable Whig majority in both chambers, and the outgoing Whig mayor, William V. Brady. A new Democratic mayor, William Havemeyer, and a more divided Council, would take office the following day. [75] That evening, an act allowing the Emigration Board to lease the Hubert Street property a term of five years with and annual rent of $3,000 passed by substantial majorities in both Board of Aldermen and Board of Assistant Aldermen.[76]

The possibility of an immigrant depot in their midst infuriated many ward residents, as they felt it had been foisted on them in a furtive and premeditated manner, and without an opportunity to appeal it now that the Council that had passed the measure had ended its work. The law was particularly galling, since the ordinance might not have passed under the more divided incoming government.[77] The new Aldermen's chamber had a mere two-Whig majority, while the Board of Assistants was evenly matched with

[74] Edwin G. Burrows & Mike Wallace, *Gotham: A History of New York City to 1898* (New York: Oxford University Press, 1999), p. 423.
[75] From 1830 to 1849, New York City municipal elections were held on the second Tuesday of April and the new officials were sworn in on second Tuesday of May.
[76] *Report of the Commissioners of Emigration of the State of New York Made to the Legislature, January 22, 1849* (Albany, NY: Weed, Parsons & Co., 1849), p. 20.
[77] "Depot for the Landing of Emigrants at Foot of Hubert Street," *Evening Post,* May 23, 1848, p. 1.

nine Whigs and nine Democrats.[78] To repeal the lease, bipartisan cooperation would be needed, and could not be assured. In addition, the new mayor was a Democrat, and Havemeyer was likely sympathetic to the Hubert Street lease as recent president of the Emigration Board. In the public message after his inauguration, he did not mention the depot specifically, but made a vague call for citizens to cooperate with the Emigration Board: "[I]t cannot be doubted that the Commissioners of Emigration will, in the discharge of their arduous and responsible duties, receive as they deserve your cordial and efficient co-operation."[79]

Within days after the lease was signed, Fifth Ward residents took action, circulating petitions and successfully filing a request for an injunction, which would halt the depot until a judicial review was completed. A *New York Spectator* editorialist added a sinister note, stating, "…the determination is freely expressed that if the authorities do not repeal the obnoxious law, force will be resorted to prevent the landing of immigrants in any part of the ward."[80] Hubert Street stretched from a working-class waterfront district into the fashionable heart of the Fifth Ward, St. John's Park (now a lot encircled by exit roads from the Holland Tunnel). The park was privately held by Trinity Church, an Episcopalian congregation of which many of the city's top merchants, bankers, and industrialists were members. The church was also one of the biggest landlords in the city. The park was named for an adjacent chapel also owned by Trinity. The surrounding area, known as Hudson Square, had several palatial homes owned by some of the city's

[78] "The Election Better," *New York Tribune,* April 13, 1848, p. 1.
[79] "Installation of the New Mayor and Common Council," *New York Tribune,* May 10, 1848, p. 1.
[80] "Trouble in the Fifth Ward," *New York Spectator,* May 18, 1848, p. 1.

wealthiest mean of affairs, like prominent merchant and Emigration Commissioner Robert Bowne Minturn.[81]

One editorialist for the elitist *Evening Post* sought to defuse the idea that it was wealthy landholders alone who felt threatened, noting that the waterfront blocks around the pier contained several industrial establishments that employed hundreds of "mechanics" who lived in the vicinity. There were "five steam engine establishments within two hundred yards of the pier" that employed "in aggregate not less than five hundred hard working mechanics, who reside with their families in small tenements in Hubert, Laight and other streets in the neighborhood.…" [82]

In the first days of June, a group calling itself "The Committee of the Citizens of the Fifth Ward" took out a lengthy advertisement in the *Evening Post*, *New York Herald,* and other journals to make sure that the public was aware of its efforts to prevent the "calamity and irreparable injury to the best interest of the ward and the city." The text stated that the Committee put a remonstrance against the landing depot signed by 1,500 citizens of the Fifth Ward in front the of the Common Council, put a similar memorial in front of the Board of Health, and collected testimonies from numerous medical men warning of the danger of pestilence, many of which were reprinted in the advertisement. The testimony of John W. Scott, a doctor practicing on Tenth Street near Sixth Avenue, was typical: "The contagious character of typhus or ship fever, smallpox, and other diseases prevalent among the crowded inmates of the steerage, require the utmost care of our city authorities to isolate, as far as practicable, the recent immigrants from the mass

[81] Robert Bowne Minturn, *Memoir of Robert Bowne Minturn* (New York: Anson D, F. Randolph & Company, 1871), p. 46.
[82] "Depot for the Landing of Emigrants at Foot of Hubert Street," *New York Evening Post,* May 23, 1848, p. 1.

of our citizens, and, if it is deemed advisable that they should be landed on one pier, it would be better to select one of the piers in the upper part of our city, above the mass of the population."[83]

The New York State Supreme Court heard the cases for and against the injunction on June 1. The legal arguments on both sides clearly illustrate the intricate and conflicting layers of law and governance that made consolidating the Emigration Board's authority so difficult. The defendants—the Emigration Board, the Mayor's office, and the Corporation Counsel—made a three-fold argument: first, that the state court had no jurisdiction over the matter since landing immigrants was a police regulation exclusively granted to the City Corporation; second, that the commissioners were acting with the authority of the April 11 law passed by the state legislature, which gave them the power to select any pier or wharf with the consent of the city corporation; and third, that the matter was one of government regulation and not "within the province of a court of equity." On the contrary, the Fifth Ward complainants argued that the concentration of immigrants in such a thickly settled area would lend itself to the spread of contagious diseases; that they did have the right to pursue their complaint in a court of equity since there would be injury in terms of disease and the value of real estate; and lastly, that the City Corporation did not have a right to introduce a nuisance among its citizens.[84] The independent but Democratic-leaning *Herald* supported the Fifth Warders, pointing to the overwhelming medical testimony they had mustered to prove the menace.[85] As one letter

[83] "Advertisement: The Emigrant Wharf Question," *New York Herald,* June 2, 1848, p. 3; "Advertisement: The Emigrant Wharf Question," *New York Evening Post,* June 3, 1848, p. 3.
[84] "Law Intelligence," *New York Herald,* June 4, 1848, p. 3.
[85] "The Commissioners of Emigration and Public Health," *New York Herald,* June 4, 1848, p. 4.

writer to the Whig *Tribune* noted, there would be no nuisance introduced into the city if only the officers of the Quarantine establishment did their jobs effectively.[86]

The court ultimately decided in favor of the Fifth Warders. The testimony of medical men and the fear of degraded property values were too much for the commissioners to overcome. Local property rights and public health concerns still trumped mere state authority in the case of the Hubert Street pier. In their 1848 annual report, the commissioners seemed frustrated that they could not fulfill one of their chief duties as mandated by the April 11 law, and made a not-so-subtle dig at the wealthy landholders in Hudson Square. "It was understood that the principal reasons which influenced the granting and sustaining of the injunction were, that the landing of emigrants at the foot of Hubert-street, in the vicinity of St. John's park, would bring into a quiet part of the city, a noisy population, without cleanliness or sobriety, would endanger the health and good morals of the ward, and seriously affect the value of its real estate." The report refuted this logic by noting that if introducing such a population comprised a nuisance that could not exist anywhere in the city, than the lower part of the city had been subjected to such conditions for years.[87]

In their annual 1848 report, the commissioners stated that they apprehended similar potential resistance when surveying other possible locations, and expressed doubt that a location for a depot would ever be found. If not, the report proposed outlawing the entire system of "emigrant running," stating that the immigrant should be free to choose any lodging and buy tickets for inland passage wherever he or she would like to do so after a consultation with the commissioners' agents. And if there were constitutional

[86] "Landing of Emigrants," *New York Tribune,* June 8, 1848, p. 1.
[87] *Report of the Commissioners of Emigration of the State of New York Made to the Legislature, January 22, 1849* (Albany, NY: Weed, Parsons & Co., 1849), p. 21.

obstacles to suppressing the runners' business, than the commissioners advocated at least doing away with April law's requirement that runners be licensed, since it had utterly failed in its intended purpose of attracting a better class of men to the business, and only served to put a veneer of legitimacy on exploitative practices.[88]

The Emigration Board would be continually frustrated in securing a landing depot until it obtained a lease for Castle Garden in May 1855. The high value of Manhattan real estate especially militated against their efforts. As we shall see in Chapter Three, local property owners would again use the same tactics that the Fifth Warders did in the Hubert Street case to stop an immigrant depot for going forward. State power alone against local interests was not enough to win the day 1848, but in 1855, the commissioners not only had state law on their side, but powerful economic interests as well.

In 1848, the commissioners were not only frustrated in their attempt to secure a landing depot, but also worked with a Damoclean sword hovering over their heads. When the Emigration Board was established in May 1847, two lawsuits that challenged the right of the states of New York and Massachusetts to charge "head taxes" on alien passengers—*Smith v. Turner* and *Norris v. Boston*—were already being heard in the US Supreme Court. In both cases, shippers filed against paying fees collected by local authorities to support institutions for sick and indigent passengers on that grounds that they violated the Constitution's Commerce Clause. Most interpreters viewed the clause as granting Congress the sole power to impose taxes on commerce with "foreign Nations."

In *Smith v. Turner,* the New York case, the commutation fee funding the Emigration Board's general operations was not challenged. Instead, the plaintiff's target was the State Health Office's head tax to support the Marine Hospital at Quarantine on

[88] Ibid., 22-24.

Staten Island. In June 1841, the British ship *Henry Bliss* arrived from Liverpool carrying 295 steerage passengers, and the master of the vessel, George Smith, refused to pay the $295 hospital tax due. William Turner, the State Health Commissioner at the time, filed a suit to collect the sum, while Smith filed a countersuit claiming the tax a violation of the Commerce Clause.[89] While their own source of funding was not threatened, the emigration commissioners nonetheless saw this case as an existential threat. The law establishing the Emigration Board made it the overseer of the Health Office and the Quarantine Station. If the hospital tax was declared unconstitutional, then the emigration commissioners would have to deal with the ensuing potential public health crisis. In addition, a decision against the hospital tax would also set a dangerous legal precedent against the Board's commutation fee and invite new suits against it.

The 1847 law establishing the Board retained the bonding and commutation system that the city government had administered since 1824—as clunky and inefficient as it was—since it had at least partially passed constitutional muster in the 1837 US Supreme Court ruling, *City of New York v. Miln.* To understand the effects of the *Passenger Cases* on the Board, it is necessary to delve into the details of the *Miln* case. It originated in 1829 when the City Corporation sought to recover $15,000 in fines resulting from the master of the ship *Emily,* William Thompson, refusing to comply with the 1824 New York state passenger law. Thompson did not submit the required report supplying details about the ship's roughly 100 alien steerage passengers, which city officials needed to generate the request for the bonds and fees due. Thompson was not held liable for the penalty, but rather the consignee of the ship's inanimate cargo, merchant George Miln.

[89] United States Supreme Court, *Opinions of the Judges of the Supreme Court of the United States, in the Cases of "Smith v. Turner" and "Norris v. The City of Boston"* (Washington: Printer of the Senate, 1849), pp. 4, 23.

Thompson's designation as "master" likely meant that he was for hire: in the merchant marine of the time, the title of "captain" meant the commander had an ownership stake in the vessel, while "master" merely meant anyone who commands a ship. Miln pushed for the case to be removed to New York's US Southern District Court since he was a resident of a different state, and from that venue the case made its way up to the US Supreme Court in 1834. It was delayed due to multiple illnesses and deaths among the justices of nearing the end of the Marshall era. That court, in the light of its *Gibbons v. Ogden* decision, most likely would have deigned the commutation fee an unconstitutional violation of the Commerce Clause. The new justices appointed by Andrew Jackson, however, pursued a different course.[90]

The City of New York's attorneys did not attempt to argue against the idea that steerage passengers were something beyond mere articles of commerce and thus not subject to the Commerce Clause. They perhaps realized the court was not ready for such an argument. In the 1830s, the conceptual distinction between the business of importing slaves and indentured servants and the business of carrying "free migrants" in steerage had not yet had time to develop. Instead the plaintiffs focused on the idea that once immigrants were inside of a state's territory, they were subject to local laws and police authority. The majority opinion of the new Taney Court agreed with this assessment. Written by Justice Philip Pendleton Barbour, it purposefully avoided the larger question of whether regulations of commerce could only be passed by Congress, and instead focused on local police power. In Barbour's understanding, this doctrine gave local authorities the right to protect citizens from the burden of caring for the foreign poor, just

[90] Timothy S. Huebner, *The Taney Court: Justices, Rulings, and Legacy* (Santa Barbara, CA: ABC-CLIO, 2003), p. 144; Mary Sarah Bildner, "Struggle over Immigration: Indentured Servants, Slaves, and Articles of Commerce, " *Missouri Law Review,* Vol. 61, Issue 4 (Fall 1996), p. 801.

as they had the right to protect them from contagious disease and other nuisances that threatened the public good. When upholding states' right to exclude certain types of migrants, Taney, Barbour, and others in the majority unquestionably had the decision's implications in mind for South Carolina's law requiring free black sailors to remain on their ships while in port. In the wake of the Nat Turner Rebellion of 1831, southern states were deeply concerned with their ability to restrict the movement of blacks both free and enslaved, leading many to adopt laws similar to South Carolina's. [91]

Although the New York lawyers did not press the issue, Barbour did feel compelled to comment on the case's Commerce Clause implications, and ironically this fierce defender of slavery was put in the ironic position of affirming that persons could not be articles of commerce. In an opinion that concurred with Barbour's, Justice Henry Baldwin disagreed: people could be "commerce" while shipboard, but noted that commerce could not "embrace" paupers. Ironically, he used the word "imported" with "paupers," revealing the general confusion over the issue. As legal scholar Mary Sarah Bildner notes, Baldwin's opinion demonstrated that it was "rapidly becoming impossible to maintain that all people were 'articles of commerce' and to continue to uphold state power to exclude certain people," especially if such individuals were white.[92] Overall, the decision did leave room for future challenges since it only ruled on the law's reporting feature. No fees had been collected or bonds posted, so the full constitutionality of states requiring them could not be tested.

---

[91] Huebner, *The Taney Court,* pp. 145-146; "Philip Pendleton Barbour," in Timothy L. Hall, *Supreme Court Justices: A Biographical Dictionary* (New York: Fact-on-File, 2001), pp. 95-89; Gerald L. Neuman, *Strangers to the Constitution: Immigrants, Borders, and Fundamental Law* (Princeton, NJ: Princeton University Press, 1996), pp. 45-48; Bildner, "Struggle over Immigration," p. 806.
[92] Bildner, "Struggle over Immigration," pp. 806-807.

The *Passenger Cases* deliberations, which began in 1846 but were not decided until 1849, made the Emigration Board's reliance on the police power doctrine appear like a more unstable foundation than before. The issue at the center of the debates was whether or not free Europeans migrants could be classed as "articles of commerce." With slavery at the top of the national agenda after the war with Mexico and the status of new territories and states hanging in the air, the need to define the federal government's power to dictate who could and could not cross borders had become paramount. Arguments in the *Passenger Cases* took on a more racialized tinge than in *Miln,* with the implications of the power of the federal government to shut down the "importation" of slaves in Article One Section Nine being brought into play.[93] John Van Buren, son of the former Democratic president and lawyer for the states, argued that migrants voluntarily immigrating into the country could in no way be considered "imports." The lead lawyer for the plaintiffs, the prominent anti-slavery Whig politician Daniel Webster, argued that the fees were indeed taxes that impinged on Congress's commerce power, but took care not to alarm pro-slavery judges by stating that a "peculiar institution" had been acknowledged in the Constitution, and the federal commerce power could not disturb slavery where it existed.[94]

The court finished its protracted deliberations in February 1849 and struck down the New York hospital tax and the Massachusetts tax, although the justices were greatly divided as to why. Five agreed that the taxes were unconstitutional, but each produced separate concurring opinions so varied that together they formed an incoherent muddle,

[93] This section allowed states to continue to allow "Migration or Importation of such Persons as any of the States now existing shall think proper to admit" until 1808.
[94] Bildner, "The Struggle over Immigration," p. 813; Maurice G. Baxter, *Daniel Webster and the Supreme Court* (Amherst, MA: University of Massachusetts Press, 1966), pp. 219-220.

providing no solid precedent for future law.[95] The four dissenting justices—Roger Taney, Peter Daniel, Samuel Nelson, and Levi Woodbury—agreed that free people coming of their own volition could not be articles of commerce and were not in the same category as slaves and indentured servants. Taney and Daniel were both intensely pro-slavery and mindful of states' right to exclude free blacks, and felt uncomfortable with white and blacks being placed in the same category as "commerce." They both would later arrive at a similar conclusion in the *Dred Scot* case, agreeing the blacks free or enslaved had no access to citizenship rights. Woodbury, a state's rights Jacksonian, believed that if states had the authority to exclude free blacks, they had the right to exclude other classes of migrants as well.[96]

Despite the fragmented nature of the decision, it nonetheless left the Emigration Board in a difficult position. Without the hospital tax fund, the commissioners would need to use the commutation fund to keep the Quarantine Station operating. Since quarantine institutions served everyone coming through the port—citizens, sailors, and immigrants alike—and not a particular class of migrant, an argument could be made that the commutation fee was now in the same legal jeopardy that the hospital tax had been. It took on the appearance of a general tax on overseas commerce, not a mechanism to prevent entry of one burdensome type of migrant. On a more simple ethical level, using the commutation fund seemed unfair since it was accumulated from fares that immigrants themselves had paid. Why should they have to shoulder the cost of care for those who had not contributed to the fund?

---

[95] Aristide R. Zolberg, *A Nation by Design: Immigration Policy in the Fashioning of America* (New York: Russell Sage Foundation, 2006), p. 149.
[96] Bildner, *Struggle over Immigration,* pp. 816-818.

The commissioners realized that, despite these trepidations, they had no other alternative. They lobbied the state legislature to revise the law so that the Quarantine Station could continue to operate by using the commutation fund. On April 11, 1849—exactly one year after the last overhaul of the Emigration Bill passed—the governor signed a law funding the Marine Hospital through the commutation fee. A major cholera outbreak in Europe undoubtedly gave the commissioners the leverage to force the issue. Legislators attempted to put a fig leaf on a clearly unconstitutional law by strengthening the language that constructed the commutation fee as a theoretically voluntary option in lieu of a bond.[97] To partly compensate for the loss of the hospital tax, the Emigration Board's commutation fee would be raised from $1.00 to $1.50. Reports of all passengers landed would continue to be submitted to the Mayor's Office, but the Health Commissioner, the previous administrator of the hospital tax, would now collect the commutation fee. The Health Commissioner would no longer earn money through a percentage of the fees he had collected, but be put on an annual salary of $2,000 out of the commutation fund, lessening the opportunity for corrupt practices. In addition, his powers with regard to the Marine Hospital would only be over "sanitary" matters, with all administrative aspects of the facilities now being in the hands of the Emigration Board. The revision also raised the special bonds for those likely to become a public charge—"lunatic, idiot, deaf, deaf, dumb, blind or infirm persons" not accompanied by emigrating families—to $500 and lengthened them to a ten-year duration. Lastly, the revision made law what had already been in practice by limiting the Marine Hospital as a

[97] Gerald L. Neuman, *Strangers to the Constitution: Immigrants, Borders, and Fundamental Law* (Princeton, NJ: Princeton University Press, 1996), pp. 45-48.

place only for passengers with infectious diseases, with others being sent to the commissioners' facilities on Ward's Island.[98]

In the spring of 1850, state legislators revised the New York City Board of Health law yet again, and while increasing the salary of the Health Officer to $3,500, it made the other formerly state Board of Health officials—the Resident Physician and Health Commissioner—municipal officials appointed by the mayor with the approval of the Common Council. The Health Officer remained a state appointee, but his duties were reduced, and the new law affirmed the right of the Mayor and municipal Health Commissioner to reverse decisions made by the Health Officer and to assert more local control over quarantine matters.[99] The emigration commissioners in their 1850 annual report argued that the state health officer should not be paid out of the commutation fund since many of his duties pertained to "general concerns of the public health, without any immediate connection with the concerns of this commission," which was alien passengers. In essence, they argued that payment of the health officer's salary jeopardized the legality of the commutation fund since the Health Office had duties beyond the scope of the Emigration Board, and furthermore, repeated nonpayments of commutation by certain vessels failed to justify the Health Officer's handsome salary of $3,500 a year, noting that his intervention "adds nothing to the certainty or efficiency of the collection." The commissioners thus proposed that the law be revised so that someone under direct control of the Board could collect the commutation fee, and that the Health Officer be paid for his other duties from another quarter.[100] Overall, the issue of the

[98] "New Emigrant Passenger Act," *New York Tribune,* April 16, 1849, p. 1.
[99] Duffy, *A History of Public Health in New York City, 1625-1866*, p. 339-340.
[100] *Annual Report of the Commissioners of Emigration for 1850* (Albany, NY: Charles Van Benthuysen, 1851), pp. 7-8.

constitutionality of a state authority regulating immigration would continue to haunt the Emigration Board for the rest of its history. But for the time being, it managed to survive the challenge posed by the 1849 *Passenger Cases.*

From its founding in 1847 to through 1854, the Emigration Board continued to enlarge its operations. This steady growth in capacity, however, was always outpaced by the ever-growing need for the agency's assistance. In 1854, the wave reached its crest: the official government count was over 460,000 alien passengers landing in the US, with almost 320,000 of those landing in the Port of New York. Ironically, when the Board obtained the Castle Garden Emigrant Depot in 1855—the institution it direly needed to assert full control over immigration through the port—the volume plummeted to almost half of what it had been the previous year.

By 1850, the Board controlled the Marine Hospital compound at Quarantine (now only for contagious patients), dealt with countless inquiries and requests for assistance at its offices in the Old Almshouse in City Hall Park, and operated several institutions on Ward's Island. These included an old stone five-story factory building that had been converted to dormitories and offices, a two-story wooden dormitory connected to it, a wood-and-brick hospital with 250 beds and a nursery building built in 1848, and twelve one-story wooden barracks housing 50 patients each built in 1849. By the beginning of 1850, the commissioners also arranged to connect the Ward's Island facilities to the Croton aqueduct system. Furthermore, the Board placed the Ward's Island hospital under the guidance of a rotation of part-time visiting physicians—all admired professionals with successful practices in the city—rather than under one residing surgeon-in-chief; each would be paid $600 a year. All of these efforts added to the Board's growing debt—

the Croton pipes alone would cost $10,000—but gave the commissioners the capacity to house roughly 1,600 inmates on the island by 1850.[101] In part to aid with these expansions, the commissioners lobbied the state legislature for a bill allowing them to mortgage real estate under their charge, and the measure passed in early March 1850.[102]

In the fall of 1850, accusations that doctors at Ward's Island hospital had illegally dissected the bodies of two immigrant children without the permission of the parents fueled a scandal about practices at the facility and tarnished the facility's reputation. The Board formed an investigatory committee of Commissioners Verplanck, Rodewald, and Dillon. Verplanck and Rodewald wrote a majority report that cleared the senior doctors involved in the cases, but did punish a junior doctor who had disinterred one of the bodies to enable the examination. The majority report argued that standard *post mortem* examination had been conducted in both cases. Only effected areas were opened up—in one case the throat and in the other the stomach—distinguishing the procedures from a full dissection practiced by medical students. According to the report, a post mortem examination is "performed with all care and respect for the dead, and takes place in the wealthiest families, and sometimes upon the bodies of the most distinguished members of the community…."[103]

Nonetheless, the episode created a considerable furor among many members of the city's Catholic community, who believed that dissection was against Church doctrine and these acts in the name of science were disrespectful of their beliefs. Commissioner and president of the Irish Emigrant Society Gregory Dillon echoed these concerns. He

[101] 1849 and 1850 Annual Reports of the Commissioners
[102] "State Legislature," *Brooklyn Daily Eagle,* March 4, 1850, p. 2.
[103] *Annual Reports of the Commissioners of Emigration of the State of New York, 1847 to 1860* (New York: John F. Trow, 1860), Appendix No. 4, p. 388

wrote a scathing dissenting report that blamed the new system of rotating visiting physicians for creating the lax environment in which such incidents could happen, advocating the return to a system of permanent residency supervised by a chief physician. More importantly, he saw the incidents as a violation of the rights of the poor. Dillon seethed that the "scandalous proceedings" could be traced to "another cause that penetrates through all of our establishments, and works with the most baleful effect": the opinion entertained by many that "emigrants are paupers, and are, therefore, entitled only to pauper consideration." Dillon called this a radical error, as most immigrants in the hospital later recovered and became productive members of society.[104] He intuitively grasped the blurred ideological line that immigrants and the commissioners navigated in the antebellum era: was the Board's aid being extended to incipient citizens, or did that need for aid mark immigrants as inherent dependents unworthy or republican citizenship?

On the heels of this episode, a delegation of state legislators, emigration commissioners, and reporters visited the island in December 1850 and were edified by what they found. A *Tribune* reporter painted an admiring portrait, noting that in each ward of the hospital facilities there was "the utmost cleanliness and care, and the best ventilation possible to the resources of the commission." He continued, "The aim and the scope of the Commission is so lofty and Christian, affecting much more nearly the vital, prosperous permanence of our institutions than a superficial glance might suppose, and the character of the present Managers is so generous and wise, that we cannot but bespeak for it the most serious thought of the community."[105]

---

[104] Ibid., pp. 391-394.
[105] "The Refuge and Hospital for Emigrants on Ward's Island," *New York Tribune,* December 20, 1850, p. 5.

If the writer had visited the commissioners' City Hall Park offices at this time, his urge to compose such lofty encomiums would have been deflated by the grim reality he would find there. The Board's employees were almost always overwhelmed with the ever-increasing volume of requests for assistance. The site had gained a reputation as a den of disorder, with fights breaking out such as a "fracas" that erupted between groups of "Irishmen and Dutchmen" in December 1847 that required police intervention.[106] By May 1850, a reporter for the *Brooklyn Daily Eagle* noted, "Crowds of emigrants daily besiege the Office of the Commissioners of Emigration begging for food and employment."[107] In November, a *Tribune* reporter complained that the management of the "extra-municipal Commissioners" could use improvement, especially in "the manner in which immigrants are kept, or allowed to *be,* around the office of the Commissioners in the Park," which he found "disgraceful and deserving of the severest reprehension."[108]

To address this concern, the Board had signed a three-year lease on a building at 27 Canal Street in January 1850 to increase their capacity to deal with this influx. The building was a former carriage house adjacent to the New Haven Railroad depot. The first floor would be used as an "intelligence office," to provide information on immigrants to friends and family and to provide leads on job opportunities. The second floor would serve as offices and a dormitory for the temporary housing of indigent immigrants. The Board also outfitted the building with a bathing room connected to the Croton water system.[109] Yet the new location, in a crowded commercial area, only

[106] "Quite a Fracas," *New York Herald,* December 26, 1847, p. 3.
[107] "Arrivals in This City," *Brooklyn Daily Eagle,* May 31, 1850, p. 2.
[108] "Condition of Immigrants," *New York Tribune,* November 5, 1850, p. 3.
[109] "New Emigrant Office," *New York Tribune,* January 14, 1851, p. 5.

exacerbated tensions with the locals. An editorial published in the *Brooklyn Eagle* at the end of February complained:

> If the Commissioners of Emigration, instead of drawing immense crowds of immigrants around their office as to grow into a grievance, which has been forced on the attention of the corporation of New York, and keeping them for weeks without doing them the least service, until they become incipient loafers and vagabonds; if, instead of this, they would establish a mode of free transit to the interior which would transport agricultural immigrants as they arrive, before they had wasted the residue of money among the sharpers and pickpockets…. [110]

Despite being perceived as a public nuisance, the Board's new office earned a reputation as an effective labor exchange. In 1852 alone, the Canal Street office provided almost 15,000 immigrants with job opportunities (almost 8,800 females and 6,175 males).[111] It also quickly came to be known as the definitive place to obtain any information pertaining to immigrants. Copies of ship's lists arrived even before people landed in the city, so relatives or friends trying to track down a newcomer frequently consulted the Board's clerks. In 1851, Police Inspector William Bell visited both the commissioners' offices in the Old Alms House in City Hall Park and their new "intelligence office" at 27 Canal Street to see if officials knew of anyone who fit a description of a thief whom an eyewitness thought to be a recent Irish immigrant.[112] Likewise, a *Tribune* reporter in 1854 related a melodramatic scene in the commissioners' office that illustrates its role as an information hub. A portly man of about sixty accompanied "a good looking Irish woman of about thirty-five years of age" into the office. The ship that she believed to have carried her three children from Ireland had

[110] "Immigration," *Brooklyn Daily Eagle,* February 28, 1851, p. 2.
[111] New York State, "Annual Report of the Commissioners of Emigration," *Documents of the Senate of the State of New York,* No. 37, Feb. 12, 1853, p. 5.
[112] Sean Wilentz, "Crime, Poverty and the Streets of New York City: The Diary of William H. Bell, 1850-51," *History Workshop,* No. 7 (Spring, 1979), p. 143.

arrived in port, but her children could not be found. The indignant man demanded that justice be done. The clerk, Bernard Casserley, easily found the children's names on the ship's manifest on file—John, 13; Annie, 11; and Katie, 9—but then said his "heart almost turned to ice" when he saw "written against the name of each: *Washed overboard.*"[113]

The Board's inability to crack down on the abuses of runners and passenger forwarders became a major source of frustration by the summer of 1851. The city government at last offered some aid by creating a dedicated "Emigrant Squad" within the police department to work in tandem with the Emigration Board, another example of cooperation between state and city authorities.[114] Toward the end of the 1851 legislative session in July, lawmakers went about revising the commissioners' operating law yet again to try to cope with this lack of capacity. The Democratic *Brooklyn Daily Eagle* took an alarmist tone on what this might entail. According to the *Eagle,* the Board had proposed through New York City Whig Assemblyman James Beekman an amendment to the law that would give the commissioners power "to unite with the steamboat and railroad monopolies, in forming a combined monopoly for transportation of emigrants from Quarantine to Chicago."[115]

Surprisingly, the Act of July 11, 1851 contained no new mechanism to deal with the abuse of runners and forwarders despite the preliminary discussions. Instead, its focus was resolving of the fraught relationship between the Health Office and the Emigration Board and settle a political score. It abolished the office of Physician of the Marine

[113] "A Scene in the Offices of the Commissioners of Emigration, *New York Tribune,* Oct. 5, 1854, p. 3.
[114] The murderer of William Poole, Lew Baker, served on this squad for several years. See "The Stanwix Hall Tragedy," *New York Times,* December 8, 1855, p. 2.
[115] No Title, *Brooklyn Daily Eagle,* July 11, 1851, p. 2.

Hospital in part because the occupant at that time, Dr. F. Campbell Stewart, a respected medical man, complained too loudly about the corrupt practices of other officials at Quarantine. Campbell wrote several letters to President Verplanck urging him to protect his position, but it was for naught. Campbell had discovered that the current Health Officer about whom he had complained was a protégé of one of Verplanck's colleagues, Commissioner Cyrus Curtiss, and that Curtiss intended to have Campbell pushed out for making the situation uncomfortable for his man.[116]

The long and brutal winter of 1851-1852 coincided with a particularly vicious outbreak of typhoid fever across the facilities under the Emigration Board's control. These circumstances tested the regime beyond the limits of its already overburdened capacities. The hospitals and refuges at Quarantine and Ward's Island were overcrowded and dirty, creating ideal conditions for disease to spread. Both inmates and officials were stricken; even the Health Officer, Dr. Sidney Doane, became extremely ill and died in late January. The mortality at Ward's Island became especially alarming. In one week in late February, the city coroner reported eight-five deaths on the island, prompting former commission and inimitable supporter Andrew Carrigan to dash off a letter to Board president Gulian Verplanck, urging changes in the system of treatment.

> Can it be that in the face of this terrible mortallity (after making due allowance for increase of population) compared with what it was under a different organisation for the medical treatment of the sick at that Institution; or compared with the loss of life at Quarantine, and against the continued remonstrances of the societies representing the countrymen of these unfortunates; that the Comrs. of Emigration are so attached to the present system that no attempt will be made to change it.
>
> I know the difficulties you have to & are heroically contending against, and would not surely add to them, but after reading the statistics

[116] Letter from F. Campbell Stewart to Gulian Verplanck and Ferdinand Karck, March 5, 1851, Verplanck Papers, Box 7, Folder 4, New-York Historical Society, New York, New York.

> of deaths for the past week which I have just done, I could not help calling your attention to this fearfull state of things.[117]

The overpopulation of inmates was partly due to the exceptionally long and severe winter, which "cut off the ordinary facilities for procuring employment in the interior," leaving many stranded. The situation was exacerbated by Ward's Island periodically being rendered unreachable by ice. The commissioners responded by expanding their Canal Street office into adjacent buildings, turning an unoccupied church on Duane Street into a temporary refuge, and converting houses on Centre Street and Third Avenue into temporary shelters. In January 1852, locals responded by having the commissioners indicted by a grand jury for having created a public nuisance with its Canal Street establishment, citing its filthiness and general disorderliness. [118]

The indictment did not lead to further legal action, though it did contribute to a growing public concern about how the Board was being managed. In July 1851, the state assembly had appointed a committee to investigate the condition, business accounts, and management of the Emigration Board, and in February 1852 the committee issued its report, leading to a proposed bill that would greatly expand the powers of the commissioners of Emigration, including have all forwarders, railroads, and steamboats carrying immigrant passengers being licensed by the Board. At the same time, a counter-bill was proposed by city Democrats to have the position of emigration commissioner an elected office. None of these measures made their way to law, but they nonetheless

[117] Letter from Andrew Carrigan to Gulian Verplanck, February 25, 1852, Verplanck Papers, Box 3, Folder 1, New-York Historical Society, New York, New York.
[118] New York State, "Annual Report of the Commissioners of Emigration of the State of New York," *Documents of the Senate of the State of New York,* No. 37, Feb. 12, 1853, Appendix, pp. 3-4, 9, 26;

demonstrate the constant struggle the commissioners experienced in their attempts to expand their capacity.[119]

Such measures were proposed since despite the commissioners' best efforts, the problem of immigrant exploitation had become progressively worse by the early 1850s, leading many to question what good the Emigration Board was in the first place. "Land sharks" had refined and systematized their practices, working in a gray area between legality and criminality, always testing the limits of what they could and could not get away with. A letter writer to the *Tribune* in July 1853 observed how numerous passenger forwarding offices in lower Manhattan had opened by "persons of known bankruptcy, in fortune and character." They hoisted "the most gaudy signs, bearing the inscriptions of New-York and Erie Railroad Offices, Pennsylvania Railroad and Passage Office to all parts of the West" and paid out weekly salaries or commissions to "every blackguard, ruffian, cut throat, and bully, that prowls about the streets of the City, to decoy the honest and unsuspecting stranger that comes to our shores." The immigrants were "beset by the whole pack of hungry wolves" upon landing, and then "like sheep led to the slaughter, are ignominiously and unfeelingly led to these shambles and sold to the highest bidder, like so much merchandise, and the poor, honest, ignorant, deluded victim, through misrepresentations, is made to believe that these are the regular offices of various Railroad and Steamboat lines, and have charged them double the regular fare."[120]

The English writer Isabella Bird, relating her observations from her 1854 journey to the US and Canada, related an even broader spectrum of scams and frauds faced by immigrants in New York, and brought to light the social and psychological costs of this

[119] "The Report of the Legislative Committee of Investigation," *New York Herald,* February 9, 1852; "Emigration Commissioners," *New York Times,* February 9, 1852, p. 2.
[120] "Emigrant Swindles," *New York Tribune,* July 21, 1853, p. 3.

relentless system of exploitation. Bird noted the "poor adventurer" would be beset upon by immigrant runners at the moment of arrival. These predators sell the unsuspecting "second-class tickets at the price of first-class, forged passes, and tickets to take him 1000 miles, which are only available at the outside for 200 or 300." If the immigrant resists these ploys, the runner will beat him if necessary. "These runners retard the westward progress of the emigrant in every way; they charge enormous rates for the removal of his luggage from the wharf; they plunder him in railway-cars, in steamboats, in lodging-houses … they sell him a lot in some non-existent locality, or send him off to the west in search of some pretended employment." Bird concluded, "Too frequently, after the emigrant has lost his money and property, sickened by disappointment and deserted by hope, he is content to remain at New York, where he contributes to increase that 'dangerous class' already so much feared in the Empire City."[121]

While the trope of the "foreign pauper"—the alien incapable of self-support shipped from the poor house in his native land and ineligible for citizenship—still held some sway in debates about immigration, the idea that many newcomers were *made* paupers by the relentless swindling they faced after landing on American soil gained more traction in the popular imagination. Commentators like Bird helped to humanize the immigrant, who in past decades had been more frequently portrayed as a pauper or article of commerce. Despite growing empathy for the immigrant's plight, the Emigration Board still faced many challenges in mustering the resources to deal with exploitation effectively.

In early 1855, a significant obstacle to the effective functioning of the Emigration Board presented itself in the form of the newly elected mayor, Fernando Wood. By

[121] Isabella Bird, *The Englishwoman in America* (London: John Murray, 1856), p. 445.

design, the Board's work was integrated with the Office of the Mayor to ground its authority in local police power so as to fend off any future legal challenges to the Commissioners' right to collect bonds and commutation fees along the lines of the *Passenger Cases*. And from 1847 to 1854, this relationship functioned relatively smoothly as the series of Whig and reformist Democratic mayors were sympathetic to the Board's goals. With the inauguration of Wood in January 1855, the dynamic changed. From the start of his administration, Wood made it clear that he sought to undermine the power of the Board, seeing it as one among many state encroachments on city affairs.

When Wood took office, he claimed to put the fight against immigrant exploitation near the top of his agenda, but viewed the Emigration Board, a state agency over which he had no control, as an obstacle rather than an ally. In accordance with Wood's devotion to the idea of "home rule" for the city, he framed the Board as an illegitimate state body interfering in municipal affairs. Despite being an *ex officio* member of the Board, he made no attempt to hide his contempt for it. By early summer of that year, had ceased to attend its weekly meetings and ceased to coordinate immigrant-related actions with its leadership.

Wood's "Special Message" to the Common Council on January 11, 1855, must have sounded promising to the commissioners at first, only to take an alarming turn. As he so often did, the mayor tried to appeal to multiple constituencies at once: pro-immigrationists and nativists were both courted in his speech, but his main appeal was made toward anyone who resented Albany's interference in city affairs (Wood cleverly sought to unify all city Democrats under his leadership against the common enemy of the Republican-dominated state legislature). The portion of his message dealing with

immigration started with a blanket condemnation of immigrant runners. He alluded to the vermin-like ubiquity of the runners, who scrambled up the sides of immigrant vessels well before they landed in New York, rushed up the gangways as vessels docked, and then continued to harass immigrants at every point of their journey into the interior. He called runners a "series of organized classes of persons, all connected, and acting from a common impulse of plunder," and "vampires" who "form a cordon, stretching from Sandy Hook to the lakes, and the far West."[122]

Wood then proposed one or two enclosed piers dedicated to landing immigrants with a police detail stationed there to protect them. He did not mean Castle Garden. Wood's language made it clear that he did not know about the Emigration Board's still secret plans to use the old fort as a landing depot, but he nonetheless had arrived at a similar idea. He did not clearly say which authority should oversee such a facility in his view, but taking his later statements into account, he meant it to be under municipal control, but funded by the Emigration Board's commutation fund.[123] It is perhaps illogical that Wood would look to municipal authority to address a problem he acknowledged was statewide or even nationwide in scope, but as a populist dictator at heart, he was committed to dealing with the problem his way and under his authority.

While Wood publically expressed his disdain for immigrant runners, he certainly understood them and even may have had some sympathy for these free-market, hyper-individualist entrepreneurs operating beyond the limits of bourgeois respectability. Wood himself emerged from the city's rough-and-tumble waterfront world. Early in his career, he had run a chandlery, a grog shop, and a tobacco shop in the downtown waterfront

[122] "City Reforms: Special Message of Mayor Wood," *New York Times,* Jan. 12, 1855, p. 3.
[123] Ibid.

district. And while he later earned significant wealth as a merchant in the coastal trade, he never broke into the elevated stratum of the transatlantic trade dominated by city's merchant princes, from whose ranks many of the Emigration Commissioners were selected. Rumors of shady land deals and questionable investments had dogged Wood across his career, contributing to his less-than-sterling reputation among the upper echelon of the mercantile and professional classes.[124]

With a nod to Know Nothings, Wood's "Special Message" played up the supposed continuing importation of "foreign paupers" to New York, and then turned its withering focus to the Emigration Board. He could not see the logic of the commissioners claiming that many non-citizens in the city's almshouse were not chargeable to the commutation fund. According to the Board, it was not responsible for immigrants for whom no fee had been paid or bond posted, such as those who had been landed at other ports or smuggled into the city without knowledge of the authorities. Wood could not be bothered with such legal technicalities; in his view, all indigent immigrants needed to be made chargeable to the Emigration Board and not to city taxpayers. Wood railed that it was "a State institution mostly under control of officers appointed by the Governor and the Senate, and, in all, respects, independent of our municipal action. Its existence is a recognition of the position that the persons called emigrants should in no respect, be a tax upon this county. As now constructed, it is a grievous tax."[125]

Wood then complained of the cost of the policemen detailed to protect immigrants, as well as that for housing immigrants convicted of a crime at the jail on Blackwell's Island and in other city penal institutions. At least since 1853 the city police

[124] Mushkat, *Fernando Wood,* pp. 6-7.
[125] ""City Reforms," *New York Times,* Jan. 12, 1855, p. 3.

had maintained an "emigrant squad" to provide immigrants with protection and hear complaints of crimes committed against them. He then lamented over the amount of time the Mayor's Office took in adjudicating cases about the rights and property of immigrants, and overseeing the licensing of immigrant runners and boarding houses. Wood concluded his remarks on immigration by asserting that the existence of the state agency meant that the city government should be relieved of all financial burdens and legal duties pertaining to immigrants.[126]

Knowing his later behavior, Wood's critique of the Board may have seemed self-serving and opportunistic. But it surely would have had some popular appeal. It is hard to read popular sentiment toward the Emigration Board in early 1855 as most publications reflected a favorable elite opinion.[127] But it is likely that the Board was an appealing political target for Wood as many of his constituents had reason to find it suspect. The fact that certain classes of dependent immigrants were being supported by local taxes after the creation of the Emigration Board must have left many scratching their heads. Furthermore, the city's laborers, a sizeable component of Wood's supporters, undoubtedly viewed the Board as a tool to help merchants and factory owners to apply downward pressure on wages.

Indeed, laborers, artisans, and other constituencies concerned with the immigration's potential degradation of the value of labor were likely to be wary of the Emigration Board because of incidents like one that took place in early 1855. At the January 17 weekly meeting of the Board, James P. Fagan, the superintendent of the

[126] Ibid.; evidence of the "Emgrant Squad" can be found in the testimony of Police Officer Theodore Freudre, "Majority and Minority Reports in Relation to the Use of Castle Garden as an Emigrant Depot," Doc. No. 53, *Documents of the Board of Councilmen of the City of New York,* Vol. II, Part II: July-December 1855, (New York: McSpedon & Baker, 1855), p. 129.
[127] A major exception was the Irish Catholic press, which was almost always critical.

"Intelligence Office" on Canal Street reported that he had sent "a number of newly arrived emigrants" to take the "places of the 'Longshoremen who left their work to resist a reduction of their wages" but that the immigrants refused to work unless they were paid $1.75 a day, the rate earned by those who had walked out. Two commissioners—James Kelly, a Whig and Thurlow Weed associate, and John A. Kennedy, a Free-Soil Democrat—were indignant about the newcomers' stand. But Commissioner Elijah Purdy, a Tammany loyalist, said he "could hardly blame them; the poor fellows didn't wish to reduce the wages of regular workmen." After a heated discussion, the commissioners passed a resolution that no immigrant would receive more than one night's lodging "after suitable employment had been furnished them."[128]

While few New Yorkers questioned the humanitarian benefits of the Emigration Board's medical and welfare facilities at Quarantine and Ward's Island, many of Wood's constituents may have viewed it as an elite instrument for ensuring the flow of cheap labor for the benefit of industrialists and merchants and a steady stream of business for the railroads. Wood saw the Board as politically vulnerable on this account, and began an active campaign to discredit it. Little did Wood know, however, that a behind-the-scenes deal was already in progress that would make the Emigration Board a more permanent fixture of the cityscape. This establishment, the Castle Garden Emigrant Depot, at last would give the agency the ability to cut off runners' physical access to newcomers. Furthermore, it would give the Board an air of permanence that it had lacked, having been forced to move from one office to the next. At the same time, the back-room dealings that led to the fort's acquisition gave credence to many of the suspicions that Wood and his followers had about the agency.

[128] "The Commissioners of Emigration—Important Proceedings," *New York Times,* Jan. 20, 1855, p. 3.

CHAPTER THREE: CASTLE GARDEN AND CONSOLIDATION

After the discouraging Hubert Street episode, the Emigration Board remained frustrated in achieving one of its primary goals: obtaining a secure landing place to protect immigrants from the predations of the runners and swindlers. But by 1854, the commissioners were willing to try again, and unbeknownst to the public, their endeavor was backed by consolidating New York state transportation interests of considerable power and influence.

Physician Francis L. Harris claimed to have come up with the idea of using Castle Garden as an immigrant depot in the winter of 1853-54. Serving as Deputy Health Officer at Quarantine at the time, Harris "suggested the feasibility" of using the structure in this capacity to Henry R. Conklin, the wealthy and politically connected Whig contractor who had won the lucrative bid to expand the Battery, held the leases to nearby piers, and operated a ferry from West 86th Street to Bull's Ferry in New Jersey. Harris, who served as Conklin's personal physician in addition to his duties on Staten Island, testified in front of a state legislative investigatory committee in 1858 that he knew that Conklin had been interested in obtaining the Castle Garden lease. The current tenants' lease, theater proprietors French & Heiser, was expiring in 1854. Harris stated that he had "no interest in Castle Garden; I have nothing to with it pecuniarily, it was conceived out of my own imagination for the benefit of the emigrants; I have never contemplated money; I never sought it, nor received it, therefor [sic]." But he implied that Conklin and his associates immediately saw the potential for profit in his idea.[1]

[1] "Testimony of Francis L. Harris," Assembly of the State of New York, *Report of the Committee to Investigate Certain Charges against the Commissioners of Emigration,* Doc. 53, Jan. 18, 1859,

In his further testimony, Harris claimed to have relayed the idea to Conklin while treating him for an illness. Laid low, Conklin soon thereafter sent a "medium of communication" named Mr. Bemis—most likely railroad investor and Conklin confederate, Matthew P. Bemis—to Harris with a plan: if the immigrant depot were to go forward, Bemis noted a corporation could be formed with either twelve or sixteen shares of profits made through passenger forwarding at the depot. Harris said he would not be a shareholder, but was promised a position as resident physician at $2,500 a year. After some excruciating fumbles and recantations, Harris offered some of the names Bemis had shown him as possible shareholders: Erastus Corning, the head of the New York Central; Henry R. Conklin; Commissioners of Emigration John P. Cumming and John E. Kennedy, Thurlow Weed, and the New York Central itself. One plan included shares for the Emigration Board, but made it clear that these were to contribute to the operating funds of the Board and not to the commissioners individually, contrary to intimations of his interrogators.[2] Indeed, by 1854 the Board was in poor financial health, having trouble meetings many of its obligations. The circumstances of the 1858-59 state legislative investigation and the credibility of Dr. Harris will be examined more closely later in this chapter, but his testimony gave some credence to the persistent rumors circulating even before the depot's opening that the commissioners and the New York railroads were somehow abusing the public trust and reaping illicit profits from the endeavor.

---

pp. 22-50. Details on Conklin's ferry holdings can be found in Common Council of the City of New York, *A Compilation of Ferry Leases and Railroad Grants Made by Corporation Council of the City of New York from July 1, 1849, to July 1, 1860,* Doc. 13 (New York: Edmund Jones & Co., 1860), pp. 189-195.

[2] Harris Testimony, p. 25; Matthew P. Bemis would later be involved in litigation surrounding the failure of the Market Savings Bank in 1872, of which Conklin was secretary. "Law Reports: How a Bank Was Managed," *New York Times,* April 26, 1876, p. 2.

With the theater proprietors' eleven-year lease ending in May 1854, the lease on the fort came before a public auction of Corporation docks under the supervision of the Commissioners of the Sinking Fund at the Superior Court on March 23. Heiser started the bidding at a rent of $3,000 a month, but lost out to one Theodore J. Allen Esq. who won the auction at $10,000 a month for five years, an increase of $8,000 from the previous lease, an increase reflective of the exponential growth in value of Manhattan real estate since the early 1840s. Allen was an attorney who appeared to have obtained the lease as a speculative investment. In April, the editors of one journal guessed at Allen's intentions, expecting "…to hear of wharfage for steamboats or some such project, in place of operatic performances."[3] Whether or not Allen had been acting as an agent for Henry Conklin is unclear, but soon thereafter Allen transferred the lease to him.

Behind the scenes, Thurlow Weed deployed his considerable skills as a lobbyist to fortify the commissioners' authority to obtain the Garden, and expand their overall statewide influence. His efforts bore fruit on April 13, 1855, when both houses of the New York State legislature passed "An Act for the Protection of Immigrants, Second Class, Steerage, and Deck Passengers." This ten-part amendment to the original May 1847 law mandated that all passage companies—railroad, steamboat, and canal boat lines—file their fares and freight rates with local magistrates across the state, required local authorities prosecute any company or individual who charged more than the posted rates, and escalated fines for repeat offenders. The amendment also created space requirements for deck passengers on steam and canal boats plying the state's interior. The

[3]George J. Svejda, *Castle Garden as an Immigrant Depot, 1855-1890* (Washington, D.C.: Division of History, Office of Archeology and Preservation, National Park Service, 1968), p. 31; "Facts and Fancies," *The Albion, A Journal of News, Politics, and Literature*; April 1, 1854, Vol. 13, No. 13, p. 151.

last sections of the amendment gave the Emigration Board the authority to designate a landing place for immigrants in the City of New York, and purchase, lease, or construct such wharves for such a place as necessary. It also put the power of compelling the master of a vessel to land at the designated place in the hands of the Health Office, with a $500 fine for landing anywhere else payable to the Emigration Board.[4]

Weed's biographer credits him with shepherding this legislation and overseeing the whole process by which the Garden was put under the commissioners' control. Merchant Robert B. Minturn also shared this impression, writing to Weed to congratulate him on his successful efforts after the depot's August opening: "I am sure that you will derive lasting gratification from the consciousness of having in this one thing accomplished so great an amount of good."[5]

The facility's financial connection to the New York railroad companies would remain nominally hidden from the public for the first few years of operations. In late spring and summer of 1855, secret negotiations overseen by Thurlow Weed paved the way for the cash-strapped commissioners to defray the cost of the formidable rent by granting the New York Central and the Erie Railroad, and the Hudson River Railroad under the umbrella of the Central, exclusive rights to sell tickets within the walls of the Garden. Together the railroads would pay the Emigration Board $10,000 a month—the entire rent due to the City Corporation—for this right. The Board's political enemies claimed that of the plan was to charge 20 percent more than the standard ticket prices available outside the depot, and the profit would be shared between the railroad

[4] *Laws of the State of New-York, Passed at the Seventy-Eight Session of the Legislature* (Albany, NY: Van Benthuysen, 1855), Chapter 474, pp. 850-853.
[5] Van Deusen, *Thurlow Weed*, p. 227; letter from Robert B. Minturn to Thurlow Weed, Aug. 16, 1855, Thurlow Weed Collection, Department of Rare Books, Special Collections, and Preservation, Rush Rhees Library, University of Rochester, Rochester, New York.

companies and the Board, although there was little evidence that any of the commissioners would reap any individual benefit.[6]

Not surprisingly, the Board's 1855 annual report makes no mention of this arrangement, stating only that the Board was able to obtain an assignment of the lease "on favorable terms" from a private party.[7] Likewise, the state legislative committee charged to look into the management of the commissioners in April 1855 made its report in March 1856, and dismissed the notion of wrongdoing. "It is apprehended on the part of some, that the commissioners or their friends in some way derive a profit from the landing, and from the sale of tickets to immigrants." After conducting inquiries into this issue, the committee members "…did not succeed in eliciting any facts tending to prove the charge." Several commissioners in charge of depot operations swore on oath that "no member of the board, or any person connected with them, derived the least profit or income" from ticket sales. The committee placed most blame for the Board's fiscal issues with the precipitous drop-off in immigration in 1855; fewer arrivals meant less commutation fees collected and bonds posted. That year's economic downturn followed by the full-blown depression after the Panic of 1857 would lead to reduced immigration for several years.[8]

With the commissioners' renewed authorization from the state legislature to secure a landing place, Conklin transferred the lease to Emigration Board on May 5. A *New York Times* editorial following the announcement mixed sentimentality and elitist

---

[6] "The Emigrant Landing Depot," *New York Times,* July 5, 1873, p. 2.
[7] *Annual Report of the Commissioners of Emigration of the State of New York for the Year Ending December 31, 1855* (New York: Wm. C. Bryant & Co., 1856), p. 18.
[8] State of New York, "Report of the Select Committee Appointed to Examine the Affairs of the Commissioners of Emigration, Doc. 105, Mar. 10, 1856, Vol. III: No. 99-114 (Albany: Van Benthuysen, 1856), pp. 12-14.

snark in equal measures: "No more Operas, or Kossuth Receptions, or Promenade Concerts—that is settled. Yesterday the Commissioners of Emigration took possession of these beautiful and very historical quarters, on a lease for four years; and hereafter the Garden will be used as a sort of dépôt, *vulgarite*, pen, into which the paupers, convicts, honest men and reputable of Europe shall be tunneled from shipboard through the city to their places of destination." The writer called the humanity of the enterprise "unquestionable," but concluded that it still "comes hard to surrender this favorite old resort of citizens to such purposes, fitting as it is," and then continued: "The City Hall would be a capital hospital ground, and the Fifth-avenue, from its width and freedom from travel, a delightful thoroughfare to drive pigs to market. Still some people would object to such innovations."[9]

Soon after the transfer, a group of wealthy men owning real estate and businesses near the Battery obtained an injunction to stop the Garden's conversion. Led by merchant, banker, and former Whig Congressman Jonas Phillips Phoenix, this group argued that the facility would depreciate the value of surrounding property, introduce "pestilential" disease into the neighborhood, and drive away business. Among Phoenix's allies were restaurateur Lorenzo Delmonico and transportation magnate Cornelius Vanderbilt.[10] But on June 8, Judge Murray Hoffman of the Superior Court ruled in favor of the transfer. Hoffman was an expert on the rights and privileges of the Corporation of the City of New York, and would author a two-volume work on the topic in 1862.[11] His decision divided the matter into two issues. The first was whether or not Phoenix and

[9] "New-York City: Fixed," *New York Times,* May 8, 1855, p. 1.
[10] "Castle Garden as an Emigrant Depot," *New York Times,* May 29, 1855, p. 3.
[11] Hendrik Hartog, *Public Property and Private Power: The Corporation of the City of New York in American Law, 1730-1870* (Chapel Hill, NC: University of North Carolina Press, 1983), p. 181-182, fn. 9.

other nearby property owners had "the absolute right" to prohibit the use of Castle Garden as a landing depot (which would be the case if the lessee was a mere private entity engaging in activities that would do harm to the value of surrounding property). The second was the whether or not the Emigration Board's intended use of the site violated general laws against public nuisances, having the consequences of "endangering property, health, or comfort." Hoffman held that previous land grants to the City Corporation dating back to the 1732 Montgomerie Charter excluded the Battery as mere private property of the Corporation, having been set aside as land for public purposes. So the rights of adjacent property to influence decisions about the Battery's use were thus limited. And Hoffman was dismissive of the idea that the depot was a public nuisance since it concentrated potentially sick immigrants into one location, noting that the testimony of the most respected medical men contradicted this claim. In Hoffman's opinion, concentrating immigrants at Castle Garden was a vast improvement over the current system in which immigrants were landed on many different piers across the lower part of the city, posing a much greater threat of spreading contagious disease. Furthermore, the depot was to serve a public purpose in line with the reasons for which the Battery had been set aside as public land in earlier charters.[12]

With the injunction out of the way, the conversion of the structure proceeded rapidly. An early July piece from the *Evening Post* noted that "[b]efore the exertions of thirty workmen the old castle is rapidly losing its identity." The writer wistfully observed, "The bar-rooms, or refreshment saloons, as they were termed, have been converted into bathing rooms, and pure Croton usurps the place from which villainous brandy was

[12] "Castle Garden to Be Converted to an Emigrant Depot—The Decision of Judge Hoffman," *New York Times,* June 11, 1855, p.

formerly dispensed." The separate bathing facilities for males and females branched off the main room, which had been enlarged with the removal of the stage. Underneath the stage had been the old fountain, which was restored: "so long concealed [it] throws out the sparkling jets of water, filling the air with a delicious coolness, and much enhancing the picturesque appearance of the rotunda." On exterior improvements, the writer also noted that a thirteen-foot-high fence—about 1,000 feet worth—surrounded the complex with only one entrance, the only other egress being by water: "Coming from the Quarantine on Staten Island, they [the immigrants] will be landed by steamboat provided for that purpose on the north side of the castle, thus preventing any communication between the vessel and the city."[13]

Despite Hoffman's decision and construction being well under way, resisters were undeterred. Mayor Fernando Wood remained aloof from the issue, having cut ties with the Emigration Board after the commissioners had ignored his proposal to expand the number of policemen stationed around it. But a coalition of conservative Tammany Hardshell Democrats and Know Nothings were able to prolong the fight since together they held a majority in both bodies of the Common Council.[14] The Board of Aldermen established a special committee to report on the legality of the lease transfer, while the Board of Councilmen assigned its standing Committee on Public Health to investigate the depot's possible threat to the First Ward.[15] Both committees reported in August. The

[13] "Castle Garden as an Emigrant Depot," from the *Evening Post* as published in *Albany Evening Journal,* July 3, 1855, p. 1; "New-York City: Progress at Castle Garden," New York Times, July 14, 1855, p. 8.
[14] Jerome Mushkat, *Fernando Wood: A Political Biography* (Kent, OH: Kent State University Press, 1990), pp. 48-49.
[15] The Board of Assistant Aldermen had been abolished in 1853 in place of a sixty-member Board of Councilmen. See Edward T. O'Donnell, "Changes to the City Charter," in Kenneth T. Jackson, ed. *The Encyclopedia of New York City,* 2nd Ed. (New Haven, CT: Yale University Press, 1995; 2010), pp. 203-207.

lease committee unsurprisingly disagreed with Judge Hoffman's decision on the grounds that the Battery was indeed the privately held property of the City Corporation based on the 1821 transfer from the federal government back to the municipality. According to the report, Conklin's transfer to the commissioners was illegitimate since it had been made without permission from the mayor or Common Council. In addition, modification had been made to the structure and carts and carriages were being driven through Battery Park up to the Garden, both being violations of the terms of the lease. The committee resolved that the Comptroller should initiate action "to enforce the rights and preserve the interests of the Mayor, Aldermen, and Commonalty of the city of New York" in respect to lease, and "enforce such remedies as may apply" toward any violations. Curiously, the majority report of the Councilmen's Public Health Committee did not concur. Even if there were "some few technical violations of the covenant in the lease of Castle Garden," the great public benefit vastly outweighed these minor infringements. This report concluded that municipal authorities should take no action, and in fact, such action would be "highly injurious to the interests and character, not only of the emigrants, but the city at large."[16]

The Common Council committee reports led to no tangible actions. But the Know Nothings within that body did make one other curious effort to prevent the conversion. On July 13, the Board of Aldermen's Committee on Lands and Places submitted a favorable report to allow Waring Latting, the proprietor of the Latting Observatory—the 315-foot tower adjacent to the Crystal Palace at the 1853 Exhibition of the Industry of All Nations—to construct a 600-foot structure to be called the "Washington Monument" on

[16] "Majority and Minority Reports in Relation to the Use of Castle Garden as an Emigrant Depot," Doc. No. 53, *Documents of the Board of Councilmen of the City of New York,* Vol. II, Part II: July-December 1855, (New York: McSpedon & Baker, 1855), pp. 17-16, 21, 23.

the site of Castle Garden. In 1854, Know Nothings had taken over the committee overseeing the construction of a similar structure in Washington, D.C., although their inability to fund the project contributed to the lengthy delay in that monument's completion (which was prolonged even further by the Civil War). While several aldermen grandstanded patriotically about the project, a greater number brought the conversation down to earth. A few noted the unsavory nature of putting Washington's memory into the hands of a mere speculator like Latting, apparently a Barnum-esque promoter. Another stated that the Common Council did not have the right to sell or lease any portion of the Battery as per the 1821 cession back to the City Corporation. Despite nativist strength in the chamber, the proposal was voted down 13-8. After one other short item of business, someone inquired if anything else was to be done, and a pro-monument alderman declared, "No! We've killed Washington and we may as well go."[17]

The ease with which the Emigration Board obtained Castle Garden did raise some eyebrows, especially considering the fierce resistance they encountered seven years earlier with their attempt to secure the Hubert Street pier. Local property owners opposing the site used almost identical tactics as the Hubert Street opponents, but this time, the Emigration Board fended off their challenges. The Board was more securely established, having come to be regarded as a permanent fixture of governance in the city. In 1855, the press and public opinion seemed more sympathetic to the commissioners' efforts, depicting opponents not so much as respected property owners, but as runners,

[17] "Common Council Proceedings," *New York Times,* July 14, 1855, p. 6; details about the Latting Observatory are from Dell Upton, "Inventing the Metropolis: Civilization and Urbanity in Antebellum New York," in Catherine Hoover Voorsanger and John K. Howat, *Art and the Empire City: New York, 1825-1861* (New Haven, CT: Yale University Press, 2000), p. 42; details about the Know Nothing involvement with the Washington Monument in D.C. are from Kirk Savage, *Monument Wars: Washington, D.C., the National Mall, and the Transformation of the Memorial Landscape* (Berkeley, CA: University of California Press, 2009), pp. 75-77.

grog-shop owners, and fraudsters. And as Assemblymen O'Keefe accurately observed at the "indignation meeting," most of the elites had moved north from the First Ward by 1855, so the concentration of wealthy property owners was far less in comparison to the area surrounding St. John's Park in the late 1840s.

A significant factor in the Board's securing the lease was officially hidden from public view, although widely rumored. Influential investors backing the consolidating upstate rail networks threw their weight behind the effort, with their interests being represented by the influential lobbyist and newspaper editor Thurlow Weed. The New York & Erie had completed its line across the state's Southern Tier in 1851, stretching from Dunkirk on Lake Erie to Piermont on the Hudson River, and connected to New York City by regular steamboat service that left from the Duane Street pier.[18] Also during that year, the Hudson River Railroad completed its route from the West Side of Manhattan to Rensselaer, directly across the river from Albany. In 1853, Weed orchestrated the passage of a bill in the state legislature chartering the New York Central, putting the lines that comprised Albany-to-Buffalo route under one corporation under the majority control of his friend, Erastus Corning, and Weed personally reaped sizeable investment gains from the deal.[19] Weed then oversaw the negotiations to secure the Castle Garden lease in 1855; a later investigation revealed the extensive involvement of the railroad interests. By concentrating the flow of immigrant customers into one place and channeling business away from potential competitors—like the New Jersey lines that

[18] Raymond G. Baxter & Arthur G. Adams, *Railroad Ferries of the Hudson and Stories of a Deckhand* (New York: Fordham University Press, 1987; 1999), p. 83.
[19] Glyndon G. Van Deusen, *Thurlow Weed: Wizard of the Lobby* (Boston, MA: Little, Brown & Co., 1947), p. 220.

fed the Pennsylvania Central—it was clear that the depot would benefit the New York lines immensely.

New Yorkers would soon learn of these backroom dealings, but what first struck them about the choice of Castle Garden was the radical contrast of its new role to its past ones. Many city dwellers shared nostalgic memories of witnessing musical performances or attending momentous political gatherings within the sandstone walls. Others remembered the Garden before the roof was built, walking across the bridge on a promenade to take in views of the harbor. Some also viewed the fort as sacred ground, but more for its civic functions rather than military ones as the cannons at the fort had never fired a hostile shot. The surrendering of a beloved local spot to the influx of immigrants was not a maneuver that courted popular sympathy.

The fort's history commenced in the years leading up to the War of 1812. Construction began in 1808 on a rocky outcropping some 200 feet offshore, and it would remain surrounded by water until 1854, when the expansion of the Battery at last engulfed it with landfill. Initially dubbed the West Battery, the fort was completed and garrisoned by November 1811. A wooden causeway and drawbridge connected the fort to the Battery. The fort's construction was part of larger effort to improve harbor fortifications due to rising tensions with European powers during the Napoleonic Wars, especially with Great Britain.[20]

In 1815, the fort was renamed Castle Clinton in honor of DeWitt Clinton, who was then finishing his third term as Mayor of New York City (he would be elected governor in 1817). In 1816, the fort became the headquarters of the U.S. Third Military

[20] George J. Svejda, *Castle Garden as an Immigrant Depot, 1855-1890* (Washington, D.C.: National Park Service, 1968), pp. 34-35.

District under the command of Winfield Scott, who would go on to become one of the longest serving generals in American history, leading troops in both the Mexican-American War and the Civil War. Compared to Scott's military service, the fort's was short-lived: District headquarters were relocated to Governor's Island in 1820, leading the War Department to demilitarize Castle Clinton in 1821. Congress then ceded the site to the City Corporation in 1822.

City authorities installed the relatively new gaslight technology around it, added roughly three acres of landfill to Battery Park itself, and constructed an open-air performance space and restaurant within the fort, opening it to the public as "Castle Garden" with great fanfare and fireworks on July 4, 1824. A mere month and a half later, Castle Garden initiated its longstanding role as a reception center for visiting dignitaries and heads of state. The Revolutionary War hero the Marquis de Lafayette landed there on August 16 and was feted by a tremendous throng. In 1833, President Andrew Jackson was received, President John Tyler in 1841, President James K. Polk in 1847, President Millard Fillmore in 1851, and Hungarian revolutionary and freedom fighter Lajos Kossuth in 1852, who was greeted with great republican fervor by a massive crowd.[21]

From the 1820s through the 1840s, Castle Garden and its immediate environs became one of the city's most popular resorts among fashionable New Yorkers. Rowing clubs established floating boathouses around it and held annual races. Floating bathhouses segregated by sex were also a draw, although in 1843 one newspaper complained that only the wealthy could afford admittance to the so-called "public"

[21] "Chronology" in Barry Moreno, *Castle Garden and Battery Park* (Charleston, SC: Arcadia Publishing, 2007), p. 8.

facilities there.[22] The fort itself became a popular venue for outdoor concerts, horseshows, and lectures. On hot days, stands sold lemonade and lager, which refreshed promenaders along with the harbor breezes. The interior had amphitheatre-style seating platform, a stage, and an enormous fountain. Public scientific demonstrations were also held there, such as Samuel Morse's October 1842 attempt to send telegraphic signals via a mile-long submarine cable connecting Castle Garden to Governor's Island. The experiment worked briefly until a ship in the harbor pulled up its anchor and severed the cable.[23] Several aeronautic endeavors were also launched from the site, with successful hot air balloon flights celebrating the arrivals of Lafayette and Jackson.[24] The American Institute of the City of New York, a civic organization encouraging technological innovations, commenced having its annual convention and display of inventions at Castle Garden in 1846, when it previous venue, Niblo's Garden, burned down (it stayed at the site until 1853, when the fair proved unprofitable since it was in competition with the Crystal Palace).[25]

The proprietors of the resort, the theatrical and musical producers, "Messrs. French and Heiser," renewed their lease from the City Corporation in 1843 for eleven years at an annual rate of $2,000, and embarked on improvements, including the reconstruction of the boathouses and the conversion of the structure into a "proper theatre" by building a shingled wooden rotunda roof. A May 1845 article from *The Anglo American* exclaimed,

---

[22] "Thomas's Salt Water Baths at Castle Garden," *The Anglo-American, A Journal of Literature, News, Politics, the Drama…,* Vol. 1, No. 9, p. 215; "A Project for the City," *The Pathfinder,* No. 14, May 27, 1843, pp. 209-210.
[23] Edwin G. Burrows & Mike Wallace, *Gotham: A History of New York City to 1898* (New York: Oxford University Press, 1999), pp. 674-675.
[24] Howard H. Wehman, "Castle Garden's Aeronauts," *New York Times,* Sunday Week in Review section, Sept. 15, 1968, p. E15.
[25] Moreno, *Castle Garden and Battery Park*, p. 33.

> A strange mutation here! No longer devoted to war-like purposes this place resounds with music and hilarious applause. It has been roofed entirely over, and a cupola lets in light from above, the gravelled court has been floored, an amphitheatre has been built within the walls capable of seating four thousand persons, the roof is sustained upon gothic pillars and the interior has been beautified by designs in Fresco. A stage has been erected and an orchestra in which are thirty two musicians.[26]

By the later 1840s, the Battery was entangled in the debates over competing plans to provide New Yorkers with more park space. As a park, it had become overcrowded, and fashionable Gothamites increasingly found themselves having to rub shoulders with the less well-to-do. In addition, long piers had been built on both sides of the promenade, obstructing the formerly breathtaking view of the harbor. In 1848, a plan by City Surveyor Daniel Ewen to expand the Battery from ten acres to twenty-four acres, filling in the water that surrounded Castle Garden, was put before the Common Council. The Fourierist newspaper edited by the Brook Farm founder George Ripley, *The Harbinger,* approved of the plan, but with a note of skepticism: "If it is what it purports to be, simply a plan to enlarge the Battery as a promenade, and for the uses of the public, we are most decidedly in favor of it. But if there are ulterior objects inconsistent with the entire preservation of every inch of both the old and new ground to be gained by the enlargement, we hope that it will meet with energetic opposition." The fact that "Mr. Vanderbilt" owned Pier 1 next to the Battery gave rise to Ripley's suspicion that more commercial-minded forces may have been behind the plan.[27]

The enlargement, however, became caught up in the debate about whether to purchase Jones Wood for a large park on the East Side or to create a central park, with

[26] *The Anglo American,* Vol. 5, No. 4, May 17, 1845, p. 91.
[27] *The Harbinger, Devoted to Social and Political Progress,* Vol. 7, No. 2, October 28, 1848, p. 205.

the Battery enlargement being used as a bargaining chip by both sides. In August 1851, the Common Council passed the plan, but Whig Mayor Ambrose Kingsland, under the sway of elite merchants against the Battery expansion who argued the enlargement would interfere with navigation, vetoed it. Yet shortly after, his veto was found to be beyond his powers according to the recently ratified state constitution.[28] A group of merchants nonetheless obtained an injunction in November 1851 to stop the expansion.
A *New York Times* piece from November 1852 noted, the City Corporation had removed all legal barriers to the work going forward. The Common Council awarded the enlargement project to noted Whig contractor and developer, Henry R. Conklin. The city would have the right to dump "ashes and dirt" in the fill site while the work was going on over the following three years, saving the Corporation the regular expense of hauling refuse uptown or shipping it to New Jersey. Castle Garden was at last on its way to becoming a part of the mainland.[29]

In the years before the Battery expansion commenced, the old fort was enjoying its apex of popularity as a performance venue and civic center. On September 11, 1850, the "Swedish Nightingale," Jenny Lind, gave the first of her ninety-three concerts she would perform in the United States at Castle Garden under an unprecedented contract signed with P.T. Barnum, who paid her $1,000 a performance and promoted her relentlessly (her American farewell concert also was staged at Castle Garden in May 1852).[30]

---

[28] Roy Rosenzweig and Elizabeth Blackmar, *The Park and the People: A History of Central* Park (Ithaca, NY: Cornell University Press, 1992), pp. 43-44.
[29] "New-York City," *New York Times,* Nov. 29, 1852, p. 8.
[30] A.H. Saxon, *P. T. Barnum: The Legend and the Man* (New York: Columbia University Press, 1995),
pp. 173-175, 182.

Performances of Italian opera at Castle Garden were enormously popular in the early 1850s, and Castle Garden proved an especially delightful venue for it during the summer months due to the cooling effect of the harbor; in the age before air conditioning, most performance venues shut down during the steamy heat of July and August. The renowned diarist George Templeton Strong provides us with this evocative portrait of a summer opera performance at Castle Garden in late July 1851:

> Heard one act of *Somnambula* at Castle Garden tonight, and the first chorus of the second. Immense crowd. The opera has created quite a furor. Everybody goes, and nob and snob, Fifth Avenue and Chatham Street, sit side by side fraternally on the hard benches. Perhaps there is so hardly so attractive a summer theatre in the world as Castle Garden when so good a company is performing there as now. Ample room; cool sea breeze on the balcony, where one can sit and smoke and listen and look out on the bay studded with lights of anchored vessels, and white sails gleaming….[31]

But the fort's days as an idyllic musical retreat were numbered. As beloved as Castle Garden was to both "hob and snob," the real estate was too valuable and strategically located for something as economically marginal as a theater to occupy the site. By the early 1850s, the city's economy had fully recovered from the lengthy depression following the Panic of 1837, and pushed into overdrive by the discovery of gold in California. The increase in waterborne commerce stretched the city's port facilities to the limit, and the value of waterfront real estate skyrocketed.[32] Despite the popularity of French & Heiser's resort, the Common Council was undoubtedly aware that it could obtain much better terms for rent, and thus put the lease up for auction in Spring 1854 upon the expiration of the theater proprietors' lease.

---

[31] George Templeton Strong, *The Diary of George Templeton Strong,* ed. Allan Nevins and Milton Halsey Thomas, Vol. 2, *The Turbulent Fifties, 1850-1859.* (New York: Macmillan, 1952.), p. 59.
[32] Edward K. Spann, *The New Metroplis: New York City, 1840-1857* (New York: Columbia University Press, 1981), pp. 283-285.

In the last weeks of July 1855, nativists and nearby property owners made no further headway in forestalling the opening of the Emigration Board's new facility. On Wednesday, August 1, 1855, the Castle Garden Emigrant Depot began operations. Oddly, no passenger vessels arrived that day, an unusual occurrence during the height of the sailing season. But this period of calm elapsed the following day. Forty days from Bremerhaven, the sailing ship *Olbers,* carrying 251 passengers, made its way across New York's Upper Bay, traveling six miles from the Quarantine anchorage off Staten Island's northeastern shore to the waters off the southern tip of Manhattan. The *Olbers* headed for a wharf along the western face of the squat, circular, fort-like building capped by a wide wooden rotunda roof. The structure stood amidst the tree-lined promenades of Battery Park, which from offshore appeared as a green interlude in a seemingly endless sprawl of wharves, piers, and masts on either side of it. The local pilot docked the ship successfully despite the treacherous currents swirling around the Battery; indeed, he later declared it too dangerous to move the ship, so the *Olbers* stood at the dock for three days until it could be towed away. This necessitated several shiploads of immigrants and their luggage to be loaded on to a barge and be towed by steamboat to the wharf (passengers then had to climb up a gangplank and over the deck of the *Olbers* while it remained there). Since docking large ships directly at the Castle Garden wharf proved too treacherous, transferring steerage passengers into a tug-pulled barge or steamboat in the middle of the harbor and conveying them to wharf in that way became the usual procedure.[33]

[33] The initial attempt to land the first ship at the Castle Garden wharf is from "Testimony of John A. Kennedy," Assembly of the State of New York, *Report of the Committee to Investigate Certain Charges against the Commissioners of Emigration,* Doc. 53, Jan. 18, 1859, pp. 49-50. The process of towing steerage passengers to the wharf in a barge is from account of the unloading the ship

As immigrants made their way down the gangplank from the deck of the *Olbers,* inspectors looked for a limp or other impairment that could signal some sort of disability, or for any outward symptom of contagious disease that could have escaped the notice of the Health Office inspector at the Quarantine anchorage. Porters hefted the luggage on to the wharf as the passengers were guided into the building's interior, thus initiating the depot's thirty-five year reign as the nation's foremost immigrant depot.

On Friday, August 3, four more ships loaded with human cargo were cleared to proceed from the Quarantine to the waters off the Battery: the *Bridgewater* from Liverpool, the *Lelia* from Rotterdam, the *Mary* from Havre, and the *Rhine* from London. Together these ships conveyed 852 steerage passengers.[34] A journalist from the *Times* made his way into Castle Garden to observe the proceedings. Admitted through a grated door in the perimeter fence, the reporter witnessed the unloading of the barge, *Pilgrim,* which had just conveyed passengers and luggage from the *Mary,* which had left Havre on June 28 carrying 304 passengers. The writer emphasized that these were not impoverished famine migrants or imported paupers, but rather "…of the better class, — stout, clean looking Hollanders, hopeful and hearty peasants from France—men who have a trade in their heads, skill in their brawny arms, and money in their pockets, and women who promise to be helps meet for industrious and intelligent men."[35]

After the inspection on the wharf, officials shepherded the newcomers into the large rotunda room and lined them up before registration desks, each with a clerk conversant in their language. The clerk obtained and recorded the following from each

---

Mary from Havre on August 3 in "Castle Garden: How Emigrants Are Treated on Landing," *New York Times,* Aug. 4, 1855, p. 1. Other information about the *Olbers* is from "Marine Intelligence," *New York Times,* Aug. 3, 1855, p. 8.

[34] "New-York City," *New York Times,* Aug. 20, 1855, p. 3.

[35] "Castle Garden…," *New York Times,* August 4, 1855, p. 1.

family head: the name and age of each family member, the ship that carried them, their final destination, the route they wished to take to it, and the amount of specie each family possessed. The passengers of the *Mary* from Havre had brought the equivalent of $14,434, averaging nearly $50 per person.[36] After being registered, the immigrants were ushered into bathing rooms, one for each sex. Following the crowd of males, the reporter found

> …a large room, in the centre of which hang several coarse roller towels, and along side is a deep trough of running Croton. This is the wash-room. Soap abounds—we hope no motives of niggardly economy will ever make it less plenty. Behind a screen that reaches across the room is a basin for bathing. A dozen or two can be accommodated at the same time. Indeed, every facility is granted the new comer, whatever may be his condition on entering it, to leave Castle Garden personally clean.[37]

The washroom facilities certainly brought practical relief to the new arrivals, but they also helped the commissioners to make the rhetorical case for Castle Garden as an instrument for transforming unclean European peasants into incipient citizens, washing away the associations of disease and dirt with immigrants in the antebellum imagination.

Officials instructed the head of the family to report to weighmaster on the wharf to identify the family luggage and "receive a certificate of its aggregate weight." The new arrivals then could consult with an agent of the Emigration Board, stationed in front of a series of large maps in the main rotunda room, to determine the best route to their destinations, and then proceed to counters where vendors sold railroad, canal boat, and steamboat passage. Most migrants were headed west, and wished to continue to their ultimate destination as quickly as possible. Those wishing to see the metropolis could

[36] "New-York City: The 'Disinterested' Baggage Smashers," *New York Daily Times,* August 20, 1855.
[37] "Castle Garden...," *Times,* Aug. 4, 1855, p. 1.

store their luggage without charge and leave through Castle Garden's narrow front gate, as each was "already a prospective American citizen and has the freedom of the City or land," but according to the reporter, few did so.[38]

The *Times* reporter took note of the spacious interior suitable for a stay of several hours, with a young vendor selling bread, cheese, and milk, and a tall fountain that cooled the air, its basin providing a place for children to sail paper boats. But the depot lacked overnight accommodations. Those wanting to stay in the city for a day or two had to take their chances with boarding houses outside of the Garden, which were notorious for taking advantage of newcomers. In less than a few hours, most of the *Mary*'s passengers found themselves back on the barge that had brought them from their ship. A steamer towed it to several transportation depots, including railroad terminals and steamboat docks along the Hudson River.[39] Many passengers who had landed in the morning were on their way westward by late afternoon, never having stepped outside of the depot's perimeter fence.[40]

In the first days of operation, immigrant runners repeatedly attempted to gain access to the depot's interior, even disguising themselves in immigrants' clothes "under the pretence of having been landed in the company with those just arrived," although one reporter was confident that they had been denied entry. Late in the evening of August 3, a group of runners gathered around the Garden's entrance facing Battery Park and harassed employees and commissioners coming and going, even throwing stones at one

[38] Ibid.
[39] Ibid.
[40] Some details of the unloading process described above are from "The Care New York Takes of Her Importations of Men—The Castle Garden Emigrant Depot," *Albany Evening Journal,* Dec. 1, 1855, p. 1

Commissioner as he entered the gate. In response, Commissioner John A. Kennedy brandished a revolver at the assembled crowd, dispersing them temporarily.[41]

The runners turned to a public demonstration to try to sway public opinion against the new institution, portraying it as an unfair business monopoly, an aggressive encroachment of state government into city affairs, a defilement of a sacred space, and above all, a source of pestilence. "Captain" Isaiah Rynders, the leader of the pro-Tammany shoulder-hitting squad known as the Empire Club, organized an "Indignation Meeting" on the Battery for the evening of Monday, August 6, to protest against the new "Charnel House" there. A pamphlet advertising the event asked citizens of the First Ward, "Do you wish to have PLAGUE AND CHOLDERA IN YOUR MIDST! Do you wish to have your Children laid low with Small Pox and Ship Fever!" The flyer continued, "Americans! Remember that Castle Garden is the beloved place that we welcomed our beloved and IMMORTAL WASHINGTON AND INDOMITABLE JACKSON!"[42]

According to the *Tribune,* attendance at the gathering on the Battery was sparse, around 100 people, with the crowd including many boys apparently having been paid to be there. The procession commenced with twenty-five boys dragging a field piece known as the "Empire Gun" followed by a group of runners and forwarders carrying banners with the following slogans: "Albany Politicians Shall Not Rule New-York," "Remove the Emigrant Depot to Some Island in the Bay," "Working Men's Rights," "Down with this Vast Swindle Lobbied through the Legislature by Railroad Speculators, "Down with Despotic Law," "Beware of Ship Fever," and "The People Rules." The raucous crowd

[41] "Castle Garden...," *Times,* Aug. 4, 1855, p. 1.
[42] "Indignation Meeting," *New York Times,* August 7, 1855, p. 1.

poured tar on the ground and set it on fire, and shot off rockets and roman candles, and fired off the "Empire Gun."[43]

A series of speakers then mounted a platform, including a few Tammany ex-aldermen and a former police captain. The crowd demanded that Captain Rynders speak, and he took the stage to much applause. The ongoing expansion of the Battery undertaken by the City Corporation, he noted, had as its aim to provide fresh air for the masses. So why were the authorities building a "pest-house" in its midst? He explained, "[R]ich men regarded the Battery as no longer a place of resort for respectable people, because the people who resorted here were poor." Rynders characterized the new establishment as a means of giving the privilege of swindling immigrants "by law" to the few, and claimed that runners had taken less from the newcomers than the new regime would. Free trade and open competition, he noted, would bring transportation costs down for the immigrant. Rynders then introduced an assemblyman, David O'Keefe, who had fought in the state legislature to stop the depot. O'Keefe thought the Garden should remain a sacred space and not made "a source of pestilential odors," and that fifteen years earlier, when the elites still lived in the First Ward, an emigrant depot would have never been placed there "no more than it could be now could be in the Fifth-Av."[44]

Most of the daily newspapers concurred that the meeting was essentially a gathering of runners, not citizens at large. The rally appears to have made little impact on broader public opinion. The *Tribune* editorialized,

> If David O'Keefe and Alderman Brown [two of the speakers] really wished to improve the health of the First Ward, let them shut up the nasty groggeries and dens of ill-fame along Greenwich and Washington Streets,

[43] "Meeting of the Immigrant Runners," *New York Tribune,* Aug. 7, 1855, p. 3; "Indignation Meeting," *New York Times,* August 7, 1855, p. 1.
[44] Ibid.

> where the immigrant robbers herd, and where candidates for office buy the votes that elect law-makers and judges.[45]

The *Times* likewise ran an editorial claiming that those who had been on the fence about the propriety of using Castle Garden as an immigrant depot should now be swayed in its favor just by the character of those who protested against it. The mainstream press, catering mostly to the interests of the city's merchants and professional classes, were uniformly positive in their representations of the depot's early operations. Horace Greeley's *Tribune* called Castle Garden in its opening weeks an "act of Christian charity and benevolence toward the stranger" and "a nut that the Immigrant Runner and his foul tribe cannot crack."[46]

The rhetoric of Rynders and his allies—against the commissioners' exercise of class privilege, their unfair monopoly over transportation with Castle Garden, and their undue interference with the operation of the free market—would come back to haunt the regime throughout its existence. In subsequent years, the façade of the old fort serving as a purely humanitarian institution could not be maintained.

Despite their threats to burn the new depot to the ground, the runners proved much less of a threat to the Emigration Board's regime than two major facets of the municipal government: the Board of Ten Governors of the Almshouse Department and Mayor Wood. With the former, a growing conflict simmered over the funding for immigrants in city institutions with the Board of Ten Governors, the body in charge of the city's public welfare and penal systems. The Ten Governors stood entirely independent of Mayor Wood and did not share his agenda to undermine the Emigration

[45] Untitled Editorial, *New-York Daily Tribune,* August 7, 1855, p. 4.
[46] "City Items: A Nut that the Immigrant Runner Cannot Crack," *New York Tribune,* Aug. 10, 1855, p. 7.

Board. Despite all of the threats and bluster from Mayor Wood, the struggle with the Ten Governors ultimately had a more lasting impact on the Board's regime by forcing a redefinition of its overall mission, making it responsible for all classes of immigrants, and not just ones for whom a commutation fee had been paid.

In February 1855, the nativist State Senator Erastus Brooks further exacerbated the tension between the commissioners and city authorities by proposing a resolution to investigate consolidating the Emigration Board and the Board of Ten Governors for the sake of economy, requiring each agency to provide full accounts of its expenditures, presumably so that they could be compared and examined for redundancies.[47] The commissioners responded with a report that tabulated their expenditures as the Senate resolution had requested, and then presented a series of arguments about why such a merger would prove impracticable and legally dubious, noting that it "would not be likely to conduce to harmonious action, and might be regarded as State intrusion on matters of local concern;" and more significantly, that "the concerns of the Commissioners are distributed over the whole State, and relate to its general interests." On this score, the report cited the commissioners' administration of the Quarantine establishment outside of the city in Richmond County; that Castle Garden and the Labor Office, by protecting immigrants from fraud and impoverishment, also served the state as a whole; and that at least three-fourths of the agency's annual expenditures "is entirely out of the city" and that at least half of funds spent within the city "relate mainly to purposes outside City limits." The commissioners Ward's Island facilities, for example, routinely received immigrants from other counties, which "could not well be done in a mere City

[47] New York State, *Journal of the Senate of the State of New-York,* 79th Session (Albany, NY: Charles Van Benthuysen), p. 164.

Almshouse."[48] The commissioners' arguments seem to have been persuasive as no further action was taken on this idea. But the fiscal infighting and bickering between the commissioners and the Almshouse Department would continue into the Civil War years.

Emboldened by the enquiry, the Board of Ten Governors renewed their efforts to collect money owed to it by the Emigration Board for the care of immigrants in several of its institutions. Since the Emigration Board did not have facilities to deal with the "insane," the Ten Governors had agreed to care for this category of immigrants in 1849 at the cost of $2.50 a week. According to the Governors, the Emigration Board had trouble meeting this obligation, and had entirely ceased paying it by March 1855. The Governors also made similar claims about payments for immigrants being cared for in the city's smallpox facility on Blackwell's Island. [49]

While the emigration commissioners agreed that the Governors' claims on the smallpox and mentally disabled were valid, they disagreed on several other categories of immigrant who had fallen into gray areas of responsibility between the two agencies, most notably children born to immigrant mothers in New York. The commissioners refused to see them as chargeable to the commutation fund due to the children being native citizens. The governors, on the other hand, viewed this position as entirely against practical logic. Likewise, the commissioners refused to pay for immigrants who had been jailed for vagrancy or who had been convicted of a crime, not viewing criminal convictions as necessarily linked to an individual's status as an immigrant.[50] For both ideological and fiscal reasons, the commissioners were loath to push all immigrants into one category. From the arguments made in these cases, it is clear that the commissioners

[48] "State Affairs: Commissioners of Emigration," *New York Times,* March 3, 1856, p. 2.
[49] "City Paupers: The Ten Governors," *New York Times,* March 7, 1855, p. 2.
[50] Ibid.

viewed their mission as helping future citizens reach financial and social independence in the five-year period before naturalization. They did not see themselves as caretakers of criminals and paupers incapable of self-support, who at least in theory would never qualify for citizenship.

Despite the city's highly charged political environment, one cannot reduce the infighting between the two agencies to mere partisanship. The Almshouse Governors were far from being creatures of Tammany or Mayor Wood, and on the whole were not advocates of "home rule" against Albany. Like the commissioners, the Ten Governors were mostly drawn from the city's mercantile, professional, and manufacturing elites. Among the members in 1855 were prominent Whig/Republican merchant Simeon Draper, and wealthy paint manufacturer, reformist Democrat, and soon-to-be mayor Daniel F. Tiemann. The Governors' desire to push all financial burdens attached to immigrant welfare entirely into the hands of the Emigration Board was due to a reformist desire for governmental efficiency rather than by nativist or anti-Albany inclinations.

On April 13, 1855—the same day that the law requiring the Emigration Board to secure a landing depot passed—the Ten Governors won a significant victory over the commissioners in the state capital. Simeon Draper traveled to Albany to lobby the legislature to simplify the issue of who was chargeable to the Emigration Board's commutation fund. Draper's efforts paid off, resulting in an amendment to the original May 1847 law that created the Emigration Board. The legislation put responsibility for the "maintenance and support" of any immigrant who became chargeable "upon any City, Town, or County" within the state on the Commissioners of Emigration as inmates "of any Almshouse, Lunatic Asylum, Workhouse, Hospital, Nursery, House of Refuge,

Asylum for Juvenile Delinquents, House of Correction, Penitentiary, Jail, Bridewell, or Prison, under commitment, sentence, or conviction" including "vagrants or disorderly persons."[51]

The Ten Governors' amendment swept away the foundational idea that the Emigration Board's welfare state was only to serve incipient citizens. The Emigration Board had previously operated on the assumption that its support was only for those of good moral character who had come by their own free will and independent means. The Board previously had not supported newcomers who had been jailed after conviction of a crime during the five-year window before possible naturalization. The amendment swept away these distinctions, making the Board responsible for the support of all immigrants in any kind of penal or welfare institution across the state. This expansion of the Board's financial burden could not have come at worse time as the Board was already struggling to meet existing ones.

During the Emigration Board's struggles with the Almshouse Governors, Mayor Wood continued his campaign to undermine the Board's credibility and authority. In a March 1855 weekly meeting of the commissioners, Wood proposed that the Board establish a police force to be maintained at Sandy Hook and the Quarantine Grounds on Staten Island that it would fund itself. These officers would board vessels and protect immigrants from runners who attempted to board ships in both the Upper and Lower Bay. A July 1853 state law forbade this practice, but it had been ignored. According to Wood, merchants flaunted the law by auctioning off the right to be the first to board: "Thus it is that the first robbery, committed by the respectable merchant of South-street, who rolls in his carriage in Fifth Avenue, leads to all the other robberies and evils that are

[51] "City Paupers: The Governors," *New York Times,* April 18, 1855, p. 2.

perpetrated." The Commissioners promised to consider the idea, but failed to take action due to lack of funds. Wood then seemed to take personal umbrage at the Board's failure to adopt his idea, and thereafter stopped attending the Board's meetings in his capacity as an *ex officio* Commissioner.[52]

By early May, Wood expanded the existing Emigrant Squad of the municipal police to create an "Emigrant Department" within the Mayor's Office, and placed a recently hired policeman, the German-born Ludwig Semler, in charge.[53] Wood clearly intended this department to become a rival to the Emigration Board, and Semler seemed to relish the role of Wood's attack dog against the Commissioners. In an October 1855 letter to the editor of the *Times,* he stated that his job in the Emigrant Department was to "receive complaints" from immigrants, and claimed to have receive a voluminous number about luggage having been stolen inside Castle Garden, tacitly accusing employees within the depot, who were paid by the railroads and not the Commissioners. Semler claimed to be housing witnesses at his own expense in order to pursue a suit in the Marine Court. The veracity of Semler's claims is difficult to ascertain, but the intention to cast aspersions on the Castle Garden regime was clear: "If you read the evidence, you will find that the law is violated by the Commissioners who make such pretensions to be law-abiders. The passengers are landed at a private dock, are consigned to those railroad companies with which the Commissioners have made their arrangements, and in such a way that, while one is examining the person and pockets of

[52] Quote from "Mayor Wood and the Commissioners of Emigration," *New York Times,* March 8, 1855, p. 8; additional information from "New-York City: Commissioners of Emigration," *New York Times,* April 26, 1855, p. 1; "Commissioners of Emigration," *New York Times,* May 4, 1855, p. 3.
[53] Semler had been hired as a policeman on Jan. 20, 1855, as recorded in D.T. Valentine, *Manual of the Corporation of the City of New York for 1856* (New York: McSpeddon & Baker, 1856), p. 142.

the emigrant, the other is knocking about the luggage, and the proprietor cannot by any possible means be present to correct it."[54] Semler may have exaggerated the frequency of outright baggage theft in the depot (lost luggage was perhaps more common), but he nonetheless emphasized the blurring of the lines between public trust and private gain that troubled many about the regime.

Common Council Nativists and Hardshell Democrats sought to exploit this vulnerability in the March 1856 by publically airing details about the relationship between the Emigration Board and the transportation companies through a Special Committee of the Board of Councilmen. The idea that ticket agents within Castle Garden charged "twenty percent" more than those outside the depot was almost single-handedly popularized by the chair of the special committee, Hardshell Jacob L. Smith, who the *Times* later described as having been an immigrant runner himself. Smith also sought to prove that the employees within the Garden were committing a variety of other abuses, including outright robbery.[55]

Smith repeatedly asked those giving testimony if they knew anything about the overcharging, giving it an air of proven fact in his questioning, and mostly received the answer he wanted from compliant witnesses who stood to benefit from overthrowing or restructuring of the Castle Garden regime. For example, on March 4, 1856, the passenger forwarder and owner of the "People's Line" of steamboats that dominated the Hudson trade before the depot, Isaac Newton, testified that he "believed" that the 20 percent was charged on steamboat and railroad tickets in the depot, but thought the overcharge was retained by the companies, not the Board. Despite this, he did state that the he did think

[54] "Mr. Semler and the Commissioners of Emigration," *New York Times,* Oct. 22, 1855, p. 8.
[55] "Emigrant Runners," *New York Times,* May 9, 1856, p. 4.

that the depot did protect immigrants better than the previous system of landing, and that a specific landing place was "essential for their protection." Smith also asked Newton about his presence at a series of meetings at the Astor House with representatives of the railroads and figures connected with the Emigration Board in the spring of 1855 in which the details of the Castle Garden plan were worked out. Newton noted that he had attended a few of these, but ultimately did not take part in any financial arrangements (indeed, he still did not have ticket sellers within the depot). He did mention that Thurlow Weed and the legal counsel for the Emigration Board, John Develin, had been present at the Astor House meetings he had attended. But at these meetings, Newton said, the only topic discussed was the viability of Castle Garden as an immigrant depot.[56]

The witnesses who followed Newton were not as evenhanded in their testimony. A former assistant luggage weighmaster employed in the depot stated that he had witnessed employees committing robberies, overcharging on railroad tickets, and the undervaluing of foreign currency at the money exchange. Two policemen who patrolled the depot's interior offered similar testimony. One claimed to have seen certain employees treating newcomers in a cruel and arbitrary manner, especially if they were not booking further travel. He also felt cut that the new arrivals were cut off from cheaper services by the monopolistic practices within the depot. For example, the only baggage-carting firm allowed inside the Garden was owned by William Conklin, brother of the Garden's lessee. Another policeman noted that some ships were favored over others in

[56] "New-York City: Affairs at Castle Garden," *New York Times,* March 5, 1856, p. 3.

the disembarkation process, and that cold, destitute, and hungry immigrants were forced to wait as long as twenty-four hours shipboard without food. [57]

A former cashier at Castle Garden gave perhaps the most damning evidence. Each evening he claimed to have deducted 20 percent of gross ticket sales and luggage fees, and deposited these funds into an account of the commissioners at the Phenix Bank. The cashier stated that all employees at the Garden were paid from this fund, including the Superintendent, John A. Kennedy, but added that none of the commissioners themselves received any of this money. The cashier also stated that the railroad business was evenly divided between the Erie and the Central, and that few if any were sent by the Pennsylvania. Smith also had a German immigrant testify that he had paid $7 for a ticket to Crestline, Ohio, over a New York line within the Garden, but soon discovered he could reach the same destination by purchasing a ticket for the Pennsylvania outside of the Garden for $5.41. The immigrant returned to the Garden to obtain a refund for the difference, but was refused.[58]

Smith also subpoenaed the Commissioner and President of the German Society, Rudolph Garrigue, to appear in front his committee. But Garrigue refused in a widely republished written reply. He deemed it improper that he, as a state officer, should be "questioned by a local Committee." Garrigue noted that he had recently testified for a state investigative committee already, and in essence found the municipal committee redundant.[59] Garrigue's haughty reply may have played into Smith's desire to depict the

[57] "New-York City: Affairs at Castle Garden," *New York Times,* March 5, 1856, p. 3; "Castle Garden Abuses," *New York Tribune,* March 8, 1856, p. 6.
[58] "Castle Garden Affairs," *New York Times,* March 12, 1856, p. 2.
[59] Ibid.

Board as an intrusive violation of home rule, an agency unaccountable to local authorities.

The Board of Councilmen's Special Committee did not lead to any concrete action against the Emigration Board, ultimately serving as little more than a platform for Smith's grandstanding. Evidence continued to mount over the next few years that fares sold within the Garden were significantly higher than those available outside in order to support the cost of running the facility, but opinion within the political mainstream seemed to hold that this was preferable to circumstances before the depot. An editorial in the Republican *Tribune* at the conclusion of the inquiry admitted, "there may be some defects in the Castle Garden arrangement," but labeled it "a vulgar specimen of narrow-mindedness, to endeavor to do away with a good institution because its operation was not instantly perfect." Runners previously had infiltrated nearly every avenue of city government, becoming "monster of power, influencing elections and controlling the political balance whenever reform was mooted." But now that Castle Garden had starved out the runners, the writer hoped that that they would be kept from again making "this city the focus of their villainy." Despite Jacob Smith's transparent bias, much of the testimony did have at least a partial ring of truth, and undoubtedly planted seeds of doubt in the minds of many New Yorkers about the Garden's reputation as a purely humanitarian endeavor. The city's elites may have perceived the investigation as a mere last-ditch attempt by "the runner interest" to undermine the depot, but the testimony likely played well to Democratic constituencies suspicious of collusion between the railroad corporations and the Republican-dominated state government.[60]

[60] "Commissioners of Emigration, New York Tribune, March 25,

During the first year and half of Wood's first term (1855-1856), the municipal police and the Emigrant Department maintained at least a façade of cooperation with the commissioners despite antagonistic rhetoric from Wood, Semler, and the Common Council. But during Wood's frequent absences from the city, this façade disintegrated completely. A relentless self-promoter with national ambitions, the mayor gladly accepted invitations to speak out of town. When this occurred, the Know Nothing president of the Common Council, Isaac O. Barker, assumed the office as acting mayor. An unabashed ally of the immigrant runners, Barker took these windows of opportunity to wreak havoc on the State Emigration Board's operations.

The most dramatic episode came on May 7, 1856, when the mayor, already known for his Southern sympathies, was visiting Richmond, Virginia, to deliver a speech on the life and character of Alexander Hamilton for the benefit of the "Ladies' fund to purchase Mount Vernon."[61] While Wood was away, Barker enabled Councilman Jacob Smith to challenge the Board's authority in more direct fashion than a special investigative committee. Smith told Barker that the shipping firm of Boyd & Hincken, consignees of the immigrants on the just arrived *St. Nicholas* from Le Havre, had given him permission to board that vessel. Barker signed off on a permit allowing Smith to board any vessels in the harbor for the purpose of soliciting passenger business, a violation of state law. Smith leased a steamer, the *Birbeck,* and manned it with several well known immigrant runners. After showing the permit to the police sergeant in charge of the Emigrant Squad stationed at Castle Garden, Smith and the *Birbeck* intercepted the *St. Nicholas* before the commissioners' steamer could reach it, and the runners boarded it and began to cajole the immigrants into buying tickets for the Pennsylvania Central

[61] "A Stray Mayor," *Young America,* Vol. 1 (1856), p. 232.

Railroad (which as noted above, did not have vendors in the Garden). As the Emigration Board's steamer came aside the *St. Nicholas,* the runners drew their revolvers and threatened to shoot the Board's agents if they did not turn away, prompting them to return to Castle Garden and relay the events to the depot's superintendent, John A. Kennedy, who then requested assistance from the Chief of Police. Shortly after, an officer informed Kennedy that the acting mayor's permission would be needed for the police to provide assistance.[62]

Smith wished to land the immigrants and lead them into the Garden, but Kennedy refused him entrance, later claiming that Smith was still a runner in the employ of the Pennsylvania Central. After a short standoff, Smith agreed to land the immigrants, but would hold their luggage hostage aboard the *Birbeck,* stating that they could pick it up later on Pier No. 1 on the North River. The mostly German-speaking immigrants were baffled as they watched all of their worldly possessions steam off. Frightened and tense, they were brought into the Garden and registered as usual, and then the Commissioner and President of the German Society, Rudolf Garrigue, assembled them and tried to explain the situation to them in their own tongue. As he was doing this, a group of runners forced themselves into the Garden through the front gate with knives drawn, prompting several of the commissioners' employees to draw revolvers. Bloodshed looked imminent, but the Emigration Board's men were able to force the runners out without a shot being fired. With the runners dispersed, the immigrants were then allowed to leave

[62] The incident was reconstructed using several accounts: "Another Outrage by Immigrant Runners," *New York Tribune,* May 8, 1856, p. 8; "Commissioners of Emigration: Terrible Row Between the Commissioners and Runners," *New York Herald,* May 8, 1856, p. 1; "Emigrant Runners," *New York Times,* May 9, 1856, p. 4.

to collect their luggage, being held in "the tender mercies of the ruffian crew" at the nearby Hudson River pier.[63]

After this incident, Kennedy called upon the acting mayor, who claimed that he was unaware that he was violating the law by issuing a permit to board vessels to a member of the Common Council, and then called for Smith to revoke his permit.[64] But the city's chattering classes did not soon forget the incident. The press catering to the mercantile and professional elites pounced on the story as a sorry indicator of city government's endemic political hackery, corruption, and contempt for the rule of law. A *Times* editorialist fulminated, "Our City Government is in duty bound to enforce State law, and to lend to the Commissioners of Emigration all needed aid in the discharge of their duties. That it should ignore all these obligations and interpose its authority, for the express purpose of subjecting emigrants to extortion is almost inconceivable."[65] Likewise, another opinion writer for *The Albion* expressed outrage that "…a Common Councilman, by connivance or carelessness of acting Mayor, set this law openly at defiance, bearded the Commissioners, imposed upon a batch of newly-arrived emigrants, and nearly caused a serious riot," and then called for the State Attorney-General to institute proceedings against those who had broken state law. The writer concluded, "Hope of conviction may not perhaps be entertained; but apparent vindication of the supremacy of the State may be thought worthy of agitation at least."[66] Yet such skirmishes of the May 1856 Castle Garden incident were only a precursor to the open warfare between state and municipal authorities that would break out the following year.

---

[63] Ibid. The "tender mercies" quote is from the *Times* account.
[64] "Another Outrage," *Tribune,* May 8, 1856, p. 8.
[65] "Emigrant Runners," *New York Times,* May 9, 1856, p. 4.
[66] "The State and the Municipality at Issue," *The Albion,* Vol. 15, No. 19 (May 10, 1856), p. 223.

At the start of 1856, Wood had sought to enact an aggressive reform program to make New York the best-governed major city in the nation, which to his mind entailed centralizing power under his office. Such reforms would build a platform from which to launch himself higher into the political stratosphere, setting the slate for a gubernatorial or even vice-presidential nomination. In a year of major state and national elections, Wood thought he could be the leader who would unite the Hard and Soft Democrats in the city and state. But upstate party members could not get behind Wood as governor, and the choice of Democratic presidential candidate fell to James Buchanan—a fellow Northerner, not a Southerner as Wood had hoped—thereby dashing the mayor's hopes of balancing a ticket as a Vice Presidential candidate. With paths to higher office cut off by late summer, Wood sought a strategy to secure renomination as mayor, and focused on the issue of charter reform, by which he hoped to consolidate as much power as possible in the Office of the Mayor.[67]

In this context, Wood was ready to pick a fight with any state authority that he viewed as interfering with city affairs. In August 1856, he dropped all pretenses of cooperation with the Emigration Board. The municipal police under Wood's command arrested several railroad ticketsellers in Castle Garden on the grounds that they had failed to obtain a license from the mayor to sell tickets, as was required for all runners and passenger forwarders outside of the Garden. When the *Herald* inquired with the Mayor's Office about the basis for the arrests, the reporter was given a copy of a report issued by Emigrant Department head Ludwig Semler that featured the affidavits of police officers who had witnessed the "illicit" sales of tickets within the depot. In addition, the report leveled several other charges against the commissioners. Semler noted he had received

[67] Mushkat, *Fernando Wood,* pp. 50-57.

complaints that baggage was frequently stolen from Castle Garden, that immigrants were subjected to brutal treatment and beatings inside the depot, and that they were charged higher ticket prices than those available from forwarders outside of the Garden. Furthermore, the report stated that the money exchange office within the depot overcharged immigrants and that the commissioners denied their liability for lost luggage since the ticket agents and handlers were railroad employees.[68]

The *Herald* reporter then turned to Castle Garden Superintendent John A. Kennedy for his perspective. Refusing to give a formal statement, he nonetheless informally observed that the whole affair was "set on foot for political purposes, to gain the support of the runners and shoulder hitters in the coming primary elections." Kennedy continued, "It has been said that we are fighting Mayor Wood. It is not true. Mayor Wood is fighting us. We won't notice the man at all; it would be giving him too much import." Kennedy said that he had instructed the arrested clerks to pay no mind to the police justice investigating the case as "he is too intimate with Mayor Wood to do them justice." Kennedy then related a recent incident in which a runner insulted him in Mayor Wood's office, and Kennedy spat at the man. The City Recorder then issued Kennedy a $25 fine, and he refused to pay it. Kennedy sent a letter about the fine to Whig Governor Myron Clark, who issued him a pardon, noting that Clark would "never enforce penalties inflicted by magistrates whose action is influenced by rowdies and runners."[69] The mayoral-Board conflict had descended to a new level of pettiness.

The arrests and accusations brought forth by Semler nonetheless led to the initiation of Grand Jury inquest of the municipal Court of General Sessions to investigate

[68] "Mayor Wood and the Commissioners of Emigration," *New York Herald,* Aug. 26, 1856, p. 2.
[69] Ibid.

the activities of railroad employees working inside Castle Garden. Wood and Semler could not control the composition and ensuing deliberations of that body. The Grand Jury issued its findings on September 9 after touring the depot and witnessing the unloading of several ships, and found Semler's charges baseless. On the motivation behind the published attacks on the depot, the Grand Inquest was "satisfied" that they emanated from "very interested parties against whose depredations Castle Garden affords protection to the emigrant, and who are chiefly runners, in the employ of booking agents, boardinghouse keepers, and others, who have lost custom by the establishment of a central depot, where the railroad companies have their own business done by their own clerks, and without the extensive intervention of passenger forwarders, etc."[70]

Hard and Soft Democrats did unite behind Wood to reelect him in the fall of 1856, and he garnered a substantial majority over his chief rival, nativist Isaac Barker. As Wood's biographer notes, Democrats did not rally behind Wood so much as rally behind the Buchanan national ticket. The mayor had alienated many former supporters with his dictatorial ways, especially with his tight control over police appointments. By the following April, resentment fueled the backlash against him when he attempted to gain control of the Tammany Society, during which Democrats of all stripes united to shut him out behind common opposition to "one man rule." Even more ominous for Wood was the election of sizable Republican majorities in both houses of the state legislature. In addition, several state court decisions had weakened the city government's claim to special status as a municipal corporation, making it more vulnerable to state authority and limiting city electoral participation in crafting future city charters.[71]

---

[70] "Court of General Sessions," *New York Times,* Sept. 10, 1856, p. 3.
[71] Mushkat, *Fernando Wood,* pp. 59-65; Burrows & Wallace, *Gotham,* p. 836.

With these cudgels in hand in April 1857, the Republicans in the state legislature launched an unprecedented assault on municipal authority, city Democrats, and Wood himself. They passed a new city charter and a sweeping series of additional measures that greatly undermined the mayor's power and municipal authorities as a whole in the name of reform. In a fig-leaf nod to centralizing power, the lawmakers bolstered several of the mayor's appointive powers and gave him a veto that could only be reversed with two-thirds vote of the Common Council. It made several key administrators—including the recorder and comptroller—directly elected and not accountable to the mayor.[72] Even worse for the mayor was the charter's shortening of Wood's term, making him stand for election again in 1857 without the benefit of an accompanying national election. In addition, the legislature further diluted municipal power by expanding the County Board of Supervisors and gave it significant powers to oversee numerous facets of city government, including taxation and contracting for public works. The law required the new Board of Supervisors to be bipartisan and have six seats appointed by the mayor and six popularly elected. Ironically, this reform enabled William Tweed to gain an ideal perch from which to begin constructing his notorious "ring."[73]

Republican state lawmakers continued the April onslaught, taking aim at city saloons, the organizational lynchpin of city Democrats. They passed a liquor excise law that put into place such stringent requirements on obtaining a liquor license that most of the saloons in the city—the places where most ward-level Democratic politics took place—would be out of business. And knowing the municipal police force under Wood would never enforce such a law, the legislators then passed legislation creating a new

[72] Mushkat, *Fernando Wood,* pp. 59-65, 67-75.
[73] Burrows & Wallace, *Gotham,* pp. 836-837; Spann, *The New Metropolis,* pp. 384-386.

Metropolitan Police force, with sweeping powers not only over New York County, but Kings, Richmond, and Westchester as well. Wood immediately challenged the police law in court, but could not get an injunction. In reaction, Wood had the Common Council pass a law establishing the Municipal Police, creating two official police forces in the city and leaving each station house to decide where its loyalties lay. The split was along ethnic lines, with the Irish majority siding with Wood's force, and the Anglo-Protestants with the Metropolitans. As the farce continued into June, some Municipals began to change sides as the city comptroller, Azariah Flagg, refused to pay members of that force. The crisis escalated when Street Commissioner Joseph Taylor died, and both Wood and Republican Governor John King appointed their own replacements. When the Metropolitans escorted the governor's replacement to take office in City Hall, Municipals and their followers began beating them, triggering a riot. When the Metropolitans then attempt to arrest Mayor Wood for inciting the riot, further violence erupted.[74]

The commissioners attempted to conduct business as usual, but police cooperation was essential for their operations. At a regular weekly meeting in late June, the Board received news that Wood intended to withdraw the Emigrant Squad officers who were stationed at Castle Garden and who protected vessels offshore awaiting disembarkation. Mayor Powell of Brooklyn, an *ex officio* commissioner, reportedly exclaimed, "Surely the man is not insane enough for *that!*" According to the *Tribune,* the commissioners heard rumors that the withdrawal would be followed by a coordinated attack by immigrant runners, and that Wood, Semler, and Wood's ally in the Board of Alderman William Wilson—a well known immigrant runner—were conspiring to overwhelm and

[74] Burrows & Wallace, *Gotham,* pp. 838-839; Spann, *The New Metropolis,* pp. 391-394.

force the closure of the depot to bolster the loyalty of the First Ward "shoulder-hitters," many of whom had worked as runners.[75]

On the morning of July 1, Semler ordered the two sergeants in charge of the Castle Garden detachment to withdraw their men and report to his office. According to the *Tribune,* this order came on a day when fifteen ships with over 6,000 newcomers were to be processed, potentially causing a major disruption. Most of the officers were aboard ships in the harbor, but the Commissioners refused Semler the use of their boats to retrieve them, so he was forced to hire private ones. The Commissioners had requested replacements from the Metropolitans, and by the afternoon, twelve men were deployed around the Garden and on awaiting ships. After a few tense hours, it was apparent that the threatened runner attack was not about to materialize. On July 3, the State Court of Appeals handed down its decision declaring that the Metropolitan force was the only legitimate one, and with his last legal option for resistance extinguished, Wood reluctantly disbanded the Municipals. Wood's surrender did not signal the end of violent struggle, however, as an untested squad of Metropolitans stumbled into a conflict with pro-Wood gangs in the Five Points during Independence Day celebrations. This unfortunate foray triggered a two-day battle later known as the "Dead Rabbits Riot," in which the Irish pro-Wood gangs battled nativist gangs as well as the Metropolitans.[76]

Curiously, either Semler himself or a close ally sent an anonymous letter to the *Tribune* published a few days later in effort to rehabilitate his reputation. It claimed that the *Tribune*'s account of events at Castle Garden on July 1 slandered Semler, and that in reality, he had opposed Wood's plan all along, and only signed off on the order to remove

[75] "Mayor Wood and the Commissioners of Emigration," *New York Tribune,* July 2, 1857, p. 5.
[76] Ibid.

the Emigrant Squad from Castle Garden because he was following the direct order of Mayor Wood. The letter claimed that assertions made in the piece—that Semler was in league with runners and endeavored to thwart the Emigration Board at every opportunity—were "so injurious to the character of Mr. Semler" that they must have been "based upon *ex parte* statements." Two days later, a letter writer replying to this attempt at rehabilitation found it ludicrous, stating that Semler had studied Wood's tactic of inciting anger against the commissioners "to make a little political capital among the shoulder-hitters of the First Ward," but now "contemptibly turns around to kick the dead lion."[77]

Under Mayor Wood, the previously legalistic distinctions about whether local, state, or federal authorities should regulate immigration in the city took on the qualities of a street brawl. Wood's efforts to discredit the Emigration Board had the opposite effect among the city's "respectable" classes, consolidating favorable opinion around the state agency, even as the railroad companies' involvement in financing the facilities' operations were coming to light.

Nonetheless, by the Civil War era, the Emigration Board had developed elaborate procedures for the reception of immigrants with Castle Garden as its hub. As before the opening of the depot, an agent of the Board would also board the vessel in the Narrows at the Quarantine station. Agents stationed on Staten Island were formally organized as the "Boarding Department." The boarding agent would ascertain the number of passengers, the number of deaths during the voyage, the amount and degree of sickness, and the degree of shipboard cleanliness. He also would register any passenger complaints of

[77] "Mr. Semler and the Commissioners of Emigration," *New York Tribune,* July 7, 1857, p. 6; "Mr. Semler and the Commissioners of Emigration," *New York Tribune,* July 9, 1857, p. 5.

maltreatment at the hands of the crew. The officer remained on board after Quarantine to make sure the ship proceeded directly to Castle Garden, as mandated by state law, and prevent runners from boarding the vessel beforehand. When the ship anchored "in the stream" off Castle Garden, a small steamer or barge pulled by a tug under the auspices of the Landing Department and the immigrants would be loaded on and brought to the Castle Garden pier. A detachment of Metropolitan Police would be aboard the steamer to protect the immigrants from runners.[78]

A medical officer of the Emigration Board would inspect the passengers as they came off the pier. The physician would check to see if any illnesses had escaped notice at Quarantine. In addition, immigrants with non-contagious but debilitating ailments would be set aside and sent via steamer to hospitals on Ward's or Blackwell's islands and be treated free of charge. The hospitals, like all operations under the auspices of the Emigration Board, were funded through a head tax that the shippers had to pay. The inspection would also determine if any passengers would become liable to become public burdens because of "extreme age, chronic disease, orphanage, pregnancy, lunacy or idiocy…" If so, the owner of the ship that carried such passengers was required to post special bonds for their future care.

After the inspection, the immigrants were ushered into the fort and the main room under the rotunda. In the early years, they would encounter two queues leading up to registration desks, one for those speaking French and German and one for those speaking only English. (By the 1880s, clerks also spoke Russian and Italian.) At this desk, clerks recorded the following information about each individual immigrant or head of household: name, nationality, former place of residence, the name of the vessel by which

[78] Kapp, *Immigration and the Commissioners of Emigration of the State of New York,* pp. 111-112.

the individual arrived (as well as the name of its captain), intended destination, the number of family members, the amount of money he or she had brought, and the names of any relative already in the United States. The commissioners amassed detailed data about the immigrants passing through Castle Garden, soon making them the leading national authority influencing state and federal immigration policy.

After registration, the immigrants were advised about the best routes to their destination at a large desk displaying large maps showing all railroad and steamboat routes in the United States. While this was taking place, porters unloaded the luggage off the pier and into the baggage room. By the end of the Civil War, the Board had developed a complex luggage management system that was not unlike the one in place in modern airports. Upon landing, the immigrant was given a brass tag that had a letter of the alphabet on one side and a number from 1 to 600 on the other; an identical tag was then affixed to the item. The item was then stored in one of the alphabetically corresponding bins in the baggage room. After paying for passage and shipping, passengers bound for the interior would have their luggage sent to the appropriate railroad depot or steamboat dock free of charge. For immigrants staying in the city, their baggage would be taken to the city delivery room, where the luggage could be shipped to any part of the city. Overall, the elaborate protections provided for luggage speaks to the extreme extent of the runners' scams previously practiced on the immigrants. If an immigrant did not have the fare to get to his or her destination or could not afford a boarding house, the individual could apply for a space at the Emigrants' Refuge on Ward's Island.

The Emigration Board made numerous other amenities and services available beyond just ticketing and luggage storage and forwarding. If a shipload of immigrants arrived at Castle Garden before 1:00 pm, its passengers generally were whisked along their way by the evening. But immigrants frequently had to spend the night before making their connection the following morning. While there were no formal sleeping accommodations on site, the fort was well heated during the cold months and could house roughly three thousand people overnight. Vendors provided fresh-baked bread, cheese, coffee, milk, and other fare at wholesale prices, and a kitchen was also available for immigrant to cook for themselves. Immigrants were strongly encouraged to use the bathing rooms—one for each sex—which were equipped with a two-foot deep pool of standing water and a trough of rushing Croton water, ample soap, and towels on racks.

Also in the main rotunda, immigrants could use the service of exchange brokers who converted specie or European currencies into U.S. legal tender for a moderate price. Immigrants also had access to the Forwarding Department, which provided a means for them to receive letters and money sent from friends or relatives already in the U.S. or still back in Europe, and a Letter Writing Department with clerks conversant in a number of European languages. The Emigration Board also had maintained a Labor Exchange since 1850; it had been located at Canal Street, but in 1867, the exchange was incorporated into the Castle Garden compound in a separate outbuilding. In 1868—its first full year of operation—it found employment for over 30,000 immigrants.[79] In addition to connecting male laborers with opportunities, the exchange also became popular among elite New York women as a place to find female household help. While Castle Garden's many concessions and services did create opportunities for corruption and fraud that many

[79] Kapp, *Immigration and the Commissioners…,* p. 116.

seized, the overall protections and amenities provided were unlike anything else at the time. The facility unquestionably bettered immigrants' situation at a crucial moment in their lives, a point when they were at their most vulnerable.

Ironically, many of the anxieties about immigrant runners and their defrauding of newcomers had been transferred to the Emigration Board's regime. The drumbeat of accusations that railroads defrauded immigrants at Castle Garden persisted throughout the life of the institution. Later inquiries revealed a much greater railroad involvement than initially imagined, giving the old runners' narrative of a "railroad swindle"' greater credence. That Castle Garden did operate as a monopoly was true through the Civil War: the New York Central and Erie railroads were given the privilege of maintaining ticketing bureaus inside the facility, while the New Jersey lines to Philadelphia and the connecting to the Pennsylvania Railroad were not. The latter company would not have direct access to New York harbor until 1867, when it was able to create a unified Jersey City to Philadelphia route through a complex series of leases.[80]

[80] Carl W. Condit, *The Port of New York: A History of the Rail and Terminal System from the Beginnings to Pennsylvania Station* (Chicago: University of Chicago Press, 1980), p. 50-51.

CHAPTER FOUR: THE COMMISSIONERS' CIVIL WAR

Thirteen-year-old Samuel Gompers and his family landed at Castle Garden after a seven-week crossing from London to New York. Making the voyage in steerage aboard an old sailing vessel, the *City of London,* they landed on July 29, 1863, according to Gompers's autobiography. The future labor leader had been born to poor Dutch Jewish parents in London, the oldest of six children. He had left school at age ten to become an apprentice shoemaker to help his father Solomon, a cigarmaker, support the family. Continued economic hardship pushed the elder Gompers to book passage for the entire family to New York, where he had some friends and family. During the lengthy crossing, the whole clan except for Solomon became stricken with terrible bouts of seasickness, so it fell upon the father to cook for the family on the small stove on the open deck provided for steerage passengers. While doing so, a black porter who worked on the ship aided him and the two men became friends. After the family disembarked and was processed at Castle Garden, friends and family greeted them just outside the gates of the institution in Battery Park. While this reunion was taking place, the black porter exited the compound, and the elder Gompers stepped toward him and shook his hand. A crowd of nearby rowdy whites—mostly likely immigrant runners—started jeering at the gesture, and even threatened to lynch Solomon and the porter. While the threat was not carried out, it must have been a terrifying introduction to the city's volatile political and racial environment less than two weeks after the savagery of the Draft Riots.[1]

[1] Samuel Gompers, *Seventy Years of Life and Labor: An Autobiography* (New York: E.P. Dutton, 1925), Volume I, pp. 23-24.

There are no means to check on whether or not Gompers's story is apocryphal, but it nonetheless accurately reflects the awkward and tenuous position newly arrived European immigrants found themselves after landing at Castle Garden in the summer of 1863. When the mostly working-class, Irish Catholic rioters took to the streets in July 1863, they targeted not only African Americans, wealthy and influential Republicans, and abolitionists during those five violent days, but also any tangible manifestations (people or property) of the federal and state authorities. The rioters attacked state militiamen and Union officers, and officials of the federal Provost Marshal General's Bureau overseeing the draft, which could overstep antagonistic local and state-level Democratic governments to enforce the conscription law. Rioters also targeted officers of the Metropolitan Police, which, as detailed in Chapter Three, was a force foisted upon the Democratic municipal government by the Republicans in the state legislature in 1857.[2]

Virulent racism and class resentment fueled the rioters' rage, but these feelings were interwoven with a general animus against the unprecedented wartime intrusiveness of the American state. Well-connected pro-war Republicans were using federal and state mechanisms to fundamentally change the relationship between the individual and the American state to accomplish goals that Peace Democrats and their sympathizers viewed as unconstitutional and tyrannical. The desire to return to the old rules—of local governance, a remote federal state, and white supremacy—was summed up in the Peace Democrat slogan, "The Constitution as it is, the Union as it was, and the niggers where they are."[3]

---

[2] Iver Bernstein, *The New York City Draft Riots: The Significance for American Society and Politics in the Age of the Civil War* (New York: Oxford University Press, 1990), pp. 8-9 and 36-37.
[3] Louis P. Masur, *Lincoln's Hundred Days: The Emancipation Proclamation and the War for Union* (Cambridge, MA: Harvard University Press, 2012), p. 154.

To the rioters, the national draft was obviously the most galling federal intrusion into everyday life, especially the $300 commutation allowing the sons of the well-to-do to opt out. The Peace Democrat *Daily News,* published by Fernando Wood's brother Benjamin, summed up these sentiments by proclaiming that the draft "virtually exempts the rich and fastens its iron hand upon the poor alone, is sufficient demonstration of its injustice."[4] But the draft was just one federal intrusion among many, like the Emancipation Proclamation, direct taxation, and the introduction of greenbacks. Many Peace Democrats and their working-class sympathizers equated emancipation with giving freed blacks the right to enter labor market, and even more gallingly, with government assistance. From this perspective, black entry into the labor market would create even more competition and degrade the already tenuous perception of wage labor as free and independent. Indeed, in March 1863, Irish dockworkers had already made these views clear when they attacked 200 black longshoremen hired by white employers, although the police managed to stop that outbreak of violence. In addition, federal taxation and monetary policy hit wage earners hardest on account of wartime inflation.[5]

While the horrific conflict that would decide the ultimate status of enslaved African Americans raged, Americans could not help but reconsider questions about who should have access to the liberties and privileges of citizenship, and indeed, what the very idea of citizenship really meant, and what role government should play in protecting the rights and privileges of a citizen. The idea that immigrants—unlike former slaves—were worthy of citizenship because they came of their own free will, their own means, and

[4] *Daily News* as quoted in Edward K. Spann, *Gotham at War: New York City, 1860-1865* (Wilmington, DE: Scholarly Resources, 2002), p. 96.
[5] Leslie M. Harris, In the Shadow of Slavery: African Americans in New York City, 1626-1863 (Chicago: University of Chicago Press, 2003; Bernstein, *The New York City Draft Riots*, pp. 9-11.

possessed the capacity for continued self-support took on different shades of meaning than it had previously. In this heated ideological climate, if a federal, state, or private entity interfered with the free will of migrants by coercing, deceiving, or depriving them of basic liberties, the whole process would be seen as tainted and corrupted. Indeed, anything that even sniffed of dependency in the migration process—as would be the case with the construction of the Chinese "coolie"—seemed to negate fitness for citizenship.

The Republican-dominated Congress did take some tentative steps toward nationalizing immigration authority, but stopped short. It nonetheless did pass a range of laws that skirted around the edges of nationalization. The Homestead Act of 1862 gave great encouragement to immigrants by allowing them the same access to cheap land on the western frontier as citizens, which undoubtedly contributed to the recovery of immigration totals in the following years. Also in 1862, Congress passed a bill prohibiting American citizens from participating in the "coolie" trade with American vessels, and made it necessary for voluntary Chinese migrants to obtain a certificate from the US consulate in the port of departure verifying the individual's "free" status, demonstrating that such sensitivities were well entrenched during the war.[6] Congress also passed the 1864 Immigration Act, which created a short-lived agency under the Commissioner of Immigration in Washington, D.C., within the State Department. This federal commissioner had one subordinate, the Superintendent of Immigration, who was stationed at Bowling Green in New York City, only footsteps from Castle Garden.

The new federal office was to play no regulatory role whatsoever, but rather attempted to encourage the migration of highly skilled European workers by creating a means for American employers to contract them overseas and pay for their passage. It

[6] *Congressional Globe*, 37th Cong., 2d sess., 1862, pp. 340-341.

was the first federal agency devoted entirely to immigration, and despite its overall ineffectiveness and its explicit proscription against participating in military recruitment, some critics nonetheless railed against it as a rising specter of federal tyranny, most notably New York's second Peace Democrat mayor, C. Godfrey Gunther, elected in 1864. Gunther, dismissed the "Act to Encourage Immigration" as nothing more than a covert means of importing immigrants for cannon fodder.[7] Although he completely misread the bill's true intentions, his language resonated with many New Yorkers who shared his concerns about the expansions of federal power. In this context, the state Emigration Board no longer looked like the same challenge to local autonomy as it had before the war. In essence, the looming specter of federal power made the state agency look more legitimate than it had in the past.

Perhaps the biggest practical challenge to the Board brought on by the war was the severe reduction in immigration in 1861 and 1862. These years marked the nadir of annual immigration totals in the Port of New York throughout the thirty-three-year career of the Board, with roughly 65,000 and 76,000 in those years by the commissioners' own count.[8] While fewer immigrants meant less revenue, it also meant decreased costs for caring for the sick and indigent, and a falling number of claims from upstate counties. The health of incoming immigrants was also improving due to the transition from sailing vessels to steamships that was occurring in the passenger trade, which meant shorter passages and better steerage accommodations. In 1864, a writer for the *Tribune* observed, "The improved character of the present immigration is shown by the fact that a larger

[7] "A Singular Letter from Mayor Gunther," *New York Times,* Sept. 15, 1864, p. 5.
[8] Friedrich Kapp, *Immigration and the Commissioners of Emigration of the State of New York* (New York: The Nation Press, 1870), Appendix: Table Showing the Numbers and Nativity of Alien Emigrants, pp. 232-233.

ratio of the passengers is now brought by screw steamers." The writer noted that in 1856, only about 5,000, or 3 percent of the new arrivals at Castle Garden came by steamer, while in May 1864 alone, twenty-five steamers brought 13,552, compared to 52 sailing vessels bringing 19,194. The price for steerage passage in a steamer was roughly $35 in gold, which was almost double for the same in a sailing vessel. But steamers nonetheless were growing in popularity: "Beside the saving of time, the steamers offer to steerage passengers an amount of comfort and a degree of attention to sanitary arrangement altogether unknown on sailing vessels."[9]

The Emigration Board's 1863 annual report cheerfully related that the books were almost balanced: "As in the year 1862, though the income of the Commission was far lower than was usual in the earlier years, yet the improved system and economy of their establishments, together with the diminished county claims, enabled them to meet the current expenditure of the year, and to extinguish all debts, with the exceptions of those secured by mortgage on their real estate, and contracted principally in the purchase or improvement of lands and erection of buildings."[10] Although it is naïve to put too much stock in such a political document, the Commissioners' fiscal house was indeed relatively in order compared to the much harsher fiscal difficulties of the late 1840s and 1850s, when the Board failed to pay many of its obligations, such as to the municipal almshouse authorities and to upstate counties. Indeed, one major source of relief for the Board's finances during the war years was its relinquishing of its responsibility for Quarantine to a newly established Board of Quarantine Commissioners.

[9] "Immigration," *New York Tribune,* June 17, 1864, p. 4.
[10] New York State, *Annual Report of the Board of the Commissioners of Emigration of the State of New York: For the Year Ending December 31, 1863* (New York: John F. Trow, Printer), p. 4.

In contrast to many federal agencies during the war, the Emigration Board exercised its authority within carefully defined parameters, and was not perceived by Peace Democrats as part and parcel of the expansive and threatening Republican federal and state apparatus that threatened individual liberty during the war. The commissioners' facilities did not come under attack during the draft riots, although in the case of Castle Garden, this would have been unlikely since troops were almost always stationed in Battery Park. Nonetheless, the Board carefully policed its image, making sure it appeared to stand entirely separate and apart from the Union war effort. The Commissioners' still viewed their primary mission as the protection and support newcomers who had come of their own free will and by their own means, which in the still pervasive republican ideology of the day was what qualified immigrants for citizenship. In the late 1850s, the Board had appeared a possible Whig/Republican threat to city home rule, as evidenced by Mayor Fernando Wood's attempts to undermine it. But during the war, antiwar Democrats began to see it as an assertion of a state authority standing in the face of the threatening expansion of the federal state, a viewpoint held by some of the conservative Commissioners as well.

On the other side of the political spectrum, many Republicans in the city may have viewed the Board as a vestige of an older political order on the verge of being swept aside by a newly invigorated national government, and this image was in part reinforced by the public embodiment of the board: Gulian C. Verplanck, its venerable president. The rotund and ruddy-faced patrician of one of the city's oldest and most monied Dutch families was seventy-eight in 1864, and his wealth derived in part from sizeable ancestral landholdings in the Hudson Valley, putting him on the wrong side of the anti-rent

struggles of the 1840s.[11] When the war came, Verplanck was left behind politically even by the conservative merchants, academics, and writers of his own social circle. This group, including fellow commissioner A. A. Low, rallied behind the Union war effort after Sumter, to which Verplanck gave only lukewarm support. He was not pro-slavery, but believed the fate of the peculiar institution was a matter for each state to resolve on its own, and by 1863 was considered an outspoken Peace Democrat. He publically condemned the Lincoln administration for its suspension of *habeas corpus* and infringement of First Amendment rights, as well as its introduction of paper currency. His anti-war opinions led to his ouster as president of the prestigious Century Club in 1864, an association he had founded in 1846. For Verplanck, this was a humiliating rejection by his peers. Most of the city's business elite—both Democratic and Republican—gave full support to the war effort, and found Verplanck's leadership of one of their most prestigious social clubs an embarrassment. Century members voted out Verplanck and replaced him with Republican New Englander George Bancroft by a large margin. George Templeton Strong remarked upon his ambivalent feelings on the occasion: "How unpleasant it is to vote for a snob like Bancroft, and against my old friend Verplanck!"[12] But this social humiliation had no effect on his tenure on the Board; he remained its president until his death in 1870.

Politically, the Board was a bipartisan body during the war, but overall conservative. The commissioners were mostly merchants and businessmen who had no

[11] Verplanck was a leader of the New York City absentee landlords of Hudson Valley property during the anti-rent crisis of the 1840s. See Charles W. McCurdy, *The Anti-Rent Era in New York Law and Politics, 1939-1865* (Chapel Hill, NC: UNC Press, 2001), pp. 169-170.

[12] The quote from Strong and details about Verplanck's wartime positions are from Edward K. Spann, *Ideas and Politics: New York Intellectuals and Liberal Democracy, 1820-1880* (Albany, NY: State University of New York Press, 1972), p. 192.

great sympathy for the aggressive nationalizing goals of the Radical Republicans, with most having been eager to come to some sort of compromise with the South before the outbreak of the war. Only one Republican commissioner, John P. Cumming, seemed to embrace wholeheartedly the nationalizing program; indeed, he would turn against the Board in 1866 in part for this reason. The appointed commissioners for most of the war were Cyrus Curtiss, Cumming, Wilson G. Hunt, Abiel Abbott Low, Elijah F. Purdy, and Verplanck. Curtiss had made his initial fortune in whale oil, but retired from that business in 1854, and then branched out into finance and insurance. After serving as a Commissioner of Emigration, he would serve as a Quarantine Commissioner as well, and devoted considerable time to charitable endeavors. Although a longtime friend of Seward, Curtis was a Republican of a more conservative bent.[13]

Cumming, the most radical Republican, was a wealthy construction contractor and politician who had made his fortune through government contracts for street paving and erecting public buildings; his firm had done work in Central Park, built the High Bridge over the Harlem River, and maintained the Croton system.[14] While still serving as a state commissioner, he simultaneously would work for the short-lived office of the federal Commissioner of Immigration, and in 1866 he would write a scathing report revisiting the accusation that the railroad ticketing concessions within Castle Garden overcharged immigrants for passage and luggage before resigning. While there was some

[13] "Cyrus Curtiss," *New York Times,* June 26, 1879, p. 5.
[14] Details on a bid for repaving Broadway that Cumming's firm made in 1859 can be found in "Municipal Affairs: Board of Aldermen," *New York Times, Jan*. 28, 1859, p. 5; that Cumming's company built the High Bridge and worked on Central Park construction is mentioned in the obituary of his grandson: "Frederick H. Cumming," *New York Times,* Jan. 19, 1941, p. 40.

truth to his claims, as we shall see, his accusations unquestionably had considerable political impetus behind them.[15]

Commissioner Wilson G. Hunt, a War Democrat who made his fortune as a dry goods merchant, was an early investor in telegraphy and railroads, and friend to Democratic industrialists Peter Cooper and Abraham S. Hewitt.[16] Abiel Abbott Low, the renowned China trade merchant and clipper ship owner, also maintained a conservative pro-Unionism. Both Hunt and Low embodied the political cautiousness of the city's business establishment at the outset of the conflict. In January 1861, they had been a part of a delegation of commercial men who personally traveled by special train to Washington to deliver a memorial signed by thousands of New York merchants, bankers, industrialists, and professional imploring Lincoln to make more concessions to the Southerners so as to avoid war.[17] The other appointed commissioner was the only "career" politician, Elijah F. Purdy, a Tammany operative nicknamed "The Warhorse of the Democracy." Purdy earned the respect of the city's elites after the Draft Riots for soothing class rage by developing a system in which the county government would pay for the $300 draft substitute fee for those who could not afford it.[18] Overall, city and state Democrats were more sympathetic to the Commissioners' conservatism than the city's influential pro-war business elites. Peace Democrat Governor Horatio Seymour and Mayor C. Godfrey Gunther were not inclined to interfere with the Commissioners' affairs in the ways that Mayor Fernando Wood had been.

---

[15] John P. Cumming, *Report of John P. Cumming: In Pursuance of a Resolution of the Castle Garden Committee, of the Commissioners of Emigration, Adopted February 2, 1866, with the Answer of Christie & McDonald, and His Reply of Them* (New York: Office of the Iron Age, 1866).
[16] "Death of Wilson G. Hunt," *New York Times,* Dec. 8, 1892, p. 10.
[17] Sven Beckert, *The Monied Metropolis: New York City and the Consolidation of the American Bourgeoisie, 1850-1896* (New York: Cambridge University Press, 2001), p. 96.
[18] Bernstein, *The New York Draft Riots,* pp. 64-65.

Throughout the war, the Board's policies and actions under the leadership of President Verplanck demonstrated a clear desire to keep the federal government at arm's length. As immigration once again began to pick up again in 1863, in part due to the poor economy in Europe and the inducements of the 1862 Homestead Act, the Commissioners refused to allow draft officials or even customs officials within the walls of Castle Garden. After the Draft Riots, the enlistment process was taken out of the hands of the federal Marshal Provost's Bureau locally and placed in the hands of the County Board of Supervisors, who continued to have trouble making the enlistment quotas. With few "native" takers, enlistment bounty swindlers increasing turned toward immigrants, especially after immigration began to pick again after 1863. Waiting outside of Castle Garden with enlistment papers in hand, or occasionally succeeding in sneaking in, the swindlers sought to sign up immigrants who were unaware of the full value of the signing bonuses to which they were entitled, which in 1864 was $300, so that the difference could be pocketed. According to the *Times,* the commissioners' General Agent, Bernard Casserly, did everything possible to prevent these operators from entering the Garden, and also posted a "crier" inside the Garden who declaimed immigrants' rights as they pertained to enlistment.[19]

The Board refused requests by federal and county authorities to establish a recruitment bureau within Castle Garden, and in July 1864, also denied permission for county officials to build a covered passageway linking the Garden to a recruitment station in Battery Park.[20] The reason given was that such a bureau "would tend to discourage emigration and confirm the charges made in the British Parliament in relation to foreign

[19] "Report on the Management of Castle Garden," *New York Herald,* August 11, 1864, p. 8; "Affairs at Castle Garden," *New York Times,* August 25, 1864, p. 8.
[20] "New Recruiting Headquarters," *New York Times,* July 20, 1864, p. 1

enlistments."[21] A month later, a Republican commissioner, John Cumming, suggested that a flyer be posted within Castle Garden to alert immigrants that they could obtain the $300 bonus, but Democratic Commissioner Andrew Carrigan opposed the idea, stating he "was entirely adverse to making any attempt to enlist emigrants in the Garden." Carrigan stated, "The Commission had been charged with making their institution a means by which to entrap emigrants into United States service," and that he "did not want anything which could give even the shadow of coloring of truth to the charge; but if a notice was posted to effect that emigrants were not forced to enlist, but if they chose to do so they would receive a bounty of $300," then he "had no objections to it."[22]

The commissioners' assiduousness in trying to preserve their institutional space as one free from coercive recruitment or swindling revealed their sensitivity toward the idea that immigrants worthy of citizenship were ones who came by their own free will and means. These flipside of these arguments would later be wielded against Chinese immigrants in making the case for federal restriction in the 1870s and 1880s.

One area in which the commissioners did see aggressive intervention as appropriate during this era were matters involving single young female immigrants, especially when their "virtue" was threatened, a considerable concern in the 1860s with the large influx of single young Irish women who sought work as domestic servants. Indeed, the commissioners' annual report for 1861 noted that the Intelligence Office and Labor Exchange at Castle Garden placed 4,074 females in employment compared to just 733 males.[23] In 1860, Congress passed an act "For the Better Protection of Female

[21] "Commissioners of Emigration," *New York Tribune,* July 15, 1864, p. 1.
[22] "Commissioners of Emigration," *New York Herald,* July 28, 1864, p. 5.
[23] New York State, *Annual Report of the Commissioners of Emigration of the State of New York for the Year Ending December 31, 1861* (New York: John F. Trow, 1862), p. 6.

Passengers" that carried fines of up to $1,000 and imprisonment up to a year as punishments for any member of any crew member on a U.S. vessel who during a voyage "under promise of marriage, or by threats, or by the exercise of his authority, or by solicitation, or the making of gifts or presents, seduce and have illicit connexion with any female passenger…."[24]

The commissioners became heavily involved in enforcing this federal law, as they were often the first to receive such complaints after disembarkation. The commissioners' concerns were amplified since they often had to deal with the results of such shipboard seductions. As one writer for the *Tribune* lamented in 1866, many a prostitute's "fall to contamination" had been occurred "on board the emigrant ship." The writer continued, "Thus are the wards of the obstetric department of the 'Ward's Island Hospital' crowded with the daughters of seduction, and are hourly echoing with lamentations and sighs."[25]

General Agent Casserley's attempts at policing immigrant women's virtue garnered him consistent praise in the press. In late April 1864, a reporter for the *Times* noted that Casserley had effectively stopped the "dodge" of "importing girls" for prostitution, but that his continued vigilance was still required. The report noted that Casserley had refused to allow two girls to leave Castle Garden when he discovered that they had been "consigned" to an immigrant runner attached to a proprietor of a "house of ill-repute."[26] Similarly, in October of 1864, Casserley heard the complaint of an Irish immigrant, Annie Daily, about Frank Knowles, second mate of the ship *Curtis Grinnell.* While on the voyage to New York, Knowles "…took advantage of her friendless

[24] U.S. Congress, "An Act to Amend an Act entitled, 'An Act to regulate the Carriage of Passengers in Steamships and Other Vessels,' approved March 3, 18855, for the better Protection of Female Passengers, and Other Purposes," *U.S. Statutes at Large,* VIII, 36th Congress, First Session (1860), pp. 3-4.
[25] "Immigration: A Grand Phenomenon," *New York Tribune,* July 17, 1866, p. 6.
[26] "A New Species of Villainy," *New York Times,* April 26, 1864, p. 8.

condition to accomplish her ruin under the promise of marriage." Knowles did not honor his promise, and was about to embark on a ship to California when Casserley had him arrested, and then brought the couple before Mayor Gunther, who married them. "The fetters of matrimony having been securely fastened, the commissioner released Knowles from the fetters of the law…."[27]

The idea that women, unlike men, were somehow more dependent, less than free, and in need of the paternalistic guidance of a government or private entity was also evidenced by the overseas contracting of European female laborers, which garnered scant attention from the press. In July 1864, for example, "about one hundred factory girls from England" passed through Castle Garden, "whose passage had been paid by the Lawrence Hill Companies, whither the girls were forwarded."[28] This "importation" of female workers was barely noticed in contrast to the eruption of major controversies with the later cases involving male workers contracted overseas, as we shall see later in this chapter. The "importation" of nonwhite women, however, did attract legislative attention. In 1875, congress passed the Page Act, which was used to exclude categorically almost all Chinese women immigrants on the grounds that they supposedly were likely to engage in prostitution.[29]

The Emigration Board also continued to investigate and counter the incessant accusations of corruption within their regime, especially the persistent claims that railroad agents within Castle Garden overcharged for tickets for inland passage, as well as wartime accusations that Castle Garden employees were "enticing emigrants to enlist,

[27] "Law Reports," *New York Times,* Oct. 2, 1864, p. 8.
[28] "Commissioners of Emigration," *New York Tribune,* July 15, 1864, p. 6.
[29] George Anthony Peffer, "Forbidden Families: Emigration Experiences of Chinese Women Under the Page Law, 1875-1882," *Journal of American Ethnic History,* Vol. 6, No. 1 (Fall 1986), p.28.

and using their influence and taking advantage of their position in a disreputable manner."[30] At the same time, they quietly consolidated their own authority and continued to improve the infrastructure of many of their institutions (although the interior Castle Garden itself appears to have become neglected and decrepit by the end of the war).[31] Before the war's outbreak, the Commissioners started the process of bringing all of their Manhattan operations under one roof at Castle Garden, ending the peripatetic existence of their own physical offices and the Labor Exchange. As of the spring of 1859, several new "apartments" were constructed within the Castle Garden interior to house the Vice President, Secretary, House Physician, and their assistants. A space was also constructed for the commissioners' weekly meetings, as was a large hall to house the Labor Exchange on the first floor.[32] By August 1864, an elaborate ceremony was held for the laying of the cornerstone of what would become the new State Emigrant Hospital on Ward's Island, which according to President Verplanck, would rival the great hospitals of London, Paris, and Berlin, becoming one of the largest in world. He noted that advances in "sanitary science" had already given the Board's existing facilities on Ward's Island mortality rates relative to their Old World counterparts.[33]

The frequent legislative inquiries into "Castle Garden Affairs" tapered off during the war as lawmakers became preoccupied with more pressing matters. While not wanting to attract undue political attention, the commissioners nonetheless continued to police the borders between their own authority and those of other federal, municipal, and other state agencies, and succeeded in resolving two seemingly interminable

[30] "Commissioners of Emigration," *New York Herald,* July 28, 1864, p. 5.
[31] "The Battery: Filthy Condition of Castle Garden," *New York Herald,* August 28, 1865, p. 1
[32] "City Intelligence: Alterations at Castle Garden," *New York Times,* April 1, 1859, p. 5.
[33] "New State Emigrant Hospital, Ward's Island," *New York Times,* August 11, 1864, p. 8.

jurisdictional issues with state and local authorities: one over ultimate responsibility for Quarantine operations, and the other a longstanding feud with the Commissioners of Public Charities and Corrections (known as the Board of Ten Governors in the 1850s) about financial responsibility for immigrants who landed in the latter's institutions before the five-year period covered by the commutation fee expired. Overall, the Emigration Board was able to fend off these challenges, and emerged from the war in a position of relative strength compared to where it was at the start of the war. Ironically, the post-war period in which the Board was able to establish a new level of operational and fiscal stability would be short-lived, lasting only five years before the Tweed Ring would gain control of the Board and permanently damage its reputation and ability to function.

An unwelcomed continuity with the immediate prewar years was the continued confusion over who was fiscally responsible for the operation of the Quarantine system. As detailed in the previous chapter, in the immediate pre-war years, the Commissioners of Emigration unsuccessfully tried to divest themselves from the Quarantine burden. The Board had not been initially responsible for funding these operations, but after the *Passenger Cases* Supreme Court decision of 1849, the head tax—also known as the hospital fee—that supported the Quarantine facilities was declared unconstitutional, as infringing on the Commerce Clause. That year, the state legislature revised the system so that all Quarantine operations would be funded through the Board's commutation fee on alien passengers, which proved to be a significant financial burden. Sick immigrants were naturally to be cared for and supported by the commutation fee, but the Commissioners

repeatedly noted, a great many Quarantine patients were U.S. citizens not subject to that fee.[34]

Staten Island residents quite literally fired up the stakes in the Quarantine controversy. They had been lobbying the state legislature to remove the facilities from their midst since the late 1840s, and by 1857, their patience was growing thin. In that year, the state legislature finally responded by appointing and funding a three-man Commission for the Removal of Quarantine, and its first attempt at relocation was to buy a fifty-acre farm on south shore of the Staten Island at Seguine's Point. Locals vandalized and burned the newly constructed buildings there in April, putting the plans for the site on hold. By September 1, 1858, the continued presence of the old station on the north shore combined with outbreak of several yellow fever cases in the adjacent to the villages of Tompkinsville and Castleton culminated with an assault in which locals set torches to the Marine Hospital and the surrounding buildings, leaving the Quarantine complex a smoking ruin.[35]

New facilities were rebuilt in the fall, with construction costs being borne by the Commissioners of Emigration. In its Spring 1859 session, the state legislature passed a bill modifying the 1857 Quarantine Removal Act, giving the Removal Commissioners $50,000 to work out temporary accommodations that would eliminate the presence of contagious patients on Staten Island. By June, they had implemented a patchwork of accommodations: typhus and other fever patients would be sent to the Emigration Board's hospital at Ward's Island, smallpox patients to the Almshouse Commissioner's smallpox hospital on Blackwell's (now Roosevelt) Island, and yellow fever patients

[34] "Proceedings of the Commissioners of Emigration," *New York Times,* June 20, 1862, p. 8.
[35] Kathryn Stephenson, "The Quarantine War: The Burning of the New York Marine Hospital in 1858," *Public Health Reports,* Vol. 119, No. 1 (Jan.-Feb. 2004), pp. 79-92.

would be sent to a small floating hospital, a retired steamer named *Falcon,* which was retrofitted for the purpose and rechristened the *Florence Nightingale.* Healthy people who had been exposed to these diseases would be put up in the Commissioners of Emigration's facilities on Ward's Island.[36]

For 1859 and 1860, the Commissioners avoided using commutation monies to fund the Quarantine Commissioners' operations initially through a loan secured by mortgaging the Seguine's Point property. But by May 1861, the money from that loan had run out. S.C. Hawley, the secretary of the Quarantine Removal Commissioners, wrote increasingly desperate letters to Emigration Commissioners about the necessity of preparing the floating hospital for yellow fever patients for the sailing season that was already underway. He noted it would take $12,000 to make the vessel ready, but his commission had no access to funds. He wrote, "Under the circumstances there seems no resort except to the Commissioners of Emigration, who as I supposed possess the funds and powers necessary to provide for the contingency."[37] In another latter dated May 24, Hawley once again stated that work on the floating hospital could not begin until it was guaranteed that the funds would indeed materialize. "The Quarantine Comm. having no means and not being authorized to contract debts on account of the State cannot enter upon this business without incurring pursuant liabilities to the full amount of this undertaking. Under such circumstances they will not be expected to proceed until the provision of funds is <u>absolutely certain</u>."[38] By the end of the month, the Emigration Commissioners came through with funds, but still avoided using commutation monies.

---

[36] "Quarantine Removed," *New York Times,* June 29, 1859, p. 4; John Duffy, *A History of Public Health in New York City, 1625-1866* (New York: Russell Sage Foundation, 1868), pp. 348-349.
[37] S.C. Hawley to the Commissioners of Emigration, May 3, 1861, Box 4, Folder 4, Gulian C. Verplanck Papers, New-York Historical Society.
[38] S.C. Hawley to the Commissioners of Emigration, May 24, 1861, Ibid.

They pulled off this trick by selling the bonds awarded to them for their destroyed property at the Marine Hospital, exacted from the Supervisors of Richmond County (Staten Island) by the state legislature. As spontaneous as this solution may have appeared, the negotiations with the Richmond County officials fortuitously had been ongoing at least since the beginning of May, when Verplanck had been summoned to Castle Garden to meet with them.[39]

In the Emigration Board's 1861 annual report, the commissioners took note of the ad hoc nature and questionable constitutionality of their financing of Quarantine. In their previous two reports, they had "stated the difficulties, arising from the obscurities and apparent contradictions, under the several acts relating to their duties and rights, and those of the Quarantine Commissioners, and the doubtful legal and constitutional right of applying any part of the income collected from alien emigrants by commutation, for their support and assistance, to the general purposes of the protection of public health." The report continued that the Emigration Commissioners "…then hoped and expected the Legislature would not only clear up such difficulties, but relieve this Board, according to the views they have repeatedly expressed to the Legislature, from all care and responsibility as to the Quarantine and Marine Hospital." But as of 1861, no definitive action had been taken by the state legislature. The report admitted that the temporary arrangements had served the city and state relatively well, but it was only by chance since the last few years had not "been marked by wide-spread and dangerous pestilence from abroad...." The section of the report on Quarantine matters concluded with a plea to the

[39] New York State, *Annual Report of the Commissioners of Emigration of the State of New York for the Year Ending December 31, 1861* (New York: John F. Trow, 1862), pp. 21-23; Eleazer Crabtree to G.C. Verplanck, Box 3, Folder 2, Gulian C. Verplanck Papers, New-York Historical Society.

state legislature to take action. With the decline in immigration and the concurrent decrease in commutation, the Board could not afford to expend its funds on any thing other than immigrant-related purposes. The report proposed the creation of a new Metropolitan Board of Health comprised of the mayors of New York and Brooklyn and appointed physicians, which could take charge of Quarantine and fund operations not through a head tax, but by charging for services rendered to vessels and persons under the Quarantine's authority.[40]

The improvised and constitutionally questionable nature of Quarantine operations continued until the state legislature passed a bill on April 29, 1863 proposed by influential Brooklyn state senator, Democrat Henry Cruse Murphy, a former mayor of Brooklyn, co-founder of the *Brooklyn Daily Eagle,* and who, a few years later, would become a major figure in financing the construction of the Brooklyn Bridge. Curiously, an earlier version of the bill, according to the *Tribune,* called for the abolishment of the Emigration Board along with the creation of a new Quarantine Board, perhaps reflecting the animus of home-rule-oriented Democrats against the state-imposed Board.[41] The law that passed left the Emigration Board intact, but did create a new agency headed by three commissioners appointed by the governor, streamlined the quarantine laws, and required that quarantine facilities be located in the Lower Bay, and not on Staten Island, Long Island, or Coney Island, leaving no other option but to construct artificial islands for the purpose. As in the 1859 law, patients with yellow fever would be sent to the floating hospital, typhoid to Ward's Island, and smallpox to Blackwell's Island.

[40] New York State, *Annual Report of the Commissioners of Emigration of the State of New York for the Year Ending December 31, 1861* (New York: John F. Trow, 1862), pp. 21-26.
[41] "New York Legislature," *New York Tribune,* Feb. 11, 1863, p. 5.

From the commissioners' perspective, the most important aspect of the new law was that it provided permanent funding for Quarantine from the state coffers, taking the burden off the Board's depleted commutation fund. The commissioners had advocated this approach in their 1861 annual report.[42] But they were far from satisfied with the resulting system. In their 1864 report, they noted an alarming rise of immigrants with contagious fevers applying to their hospitals who apparently had contracted the disease shipboard but did not show symptoms until after landing, and who then might have unknowingly introduced the disease into the city population at large. The commissioners blamed this situation on the Health Office no longer having the capacity to detain passengers from infected ships at a formal Quarantine station.[43]

The Emigration Board's divestment from Quarantine was critical to the agency's survival and its continued dedication to the protection of the health and welfare of immigrants during the five-year window before they could be naturalized and become citizens. Quarantine matters not only proved a significant drain on their finances, but also threatened the tenuous constitutionality of their own operations in the wake of the 1849 *Passenger Cases* U.S. Supreme Court decision, which ruled that a direct "head tax" to support the Marine Hospital was indeed in violation of the Commerce Clause, contrary to the 1837 *New York v. Miln* decision that justified such a tax as within that enigmatic legal doctrine known as "police power" (see Chapter Two).

Although the commissioners, other policymakers, and interpreters of law in the 1860s still viewed quarantine as emanating from local sovereignty, a slow creep toward nationalizing these matters had already been set into motion. This process is worth

[42] Duffy, *A History of Public Health in New York City,* pp. 351-352.
[43] New York State, *Annual Report of the Commissioners of Emigration of the State of New York for the Year Ending December 31, 1864* (New York: John F. Trow, 1865), p. 22.

examining as it in many ways mirrors the slow and fitful crawl toward nationalization that immigration regulation would also take. However, the backbone for a national quarantine system was already more firmly established than was one for national immigration authority. It dated back to a 1798 federal law "for the relief of sick and disabled seamen" that created a network of marine hospitals funded through a tax on sailors' wages, channeled through the mechanism of federal customhouses. Legislators justified such a system because they viewed merchant marine sailors as vulnerable and frequently injured workers who were essential to the continuing prosperity of the nation, thus deserving of special protections.[44] In addition, precedents for some level of federal involvement in quarantine matters existed since Congress passed laws in 1796, 1799, and in 1832 allowing federal aid to be extended to assist in the enforcement of local regulations.[45]

In 1858 in Philadelphia, 1859 in Baltimore, and 1860 in New York, prominent physicians and merchants from around the country convened to try to create uniform national standards for quarantine. The momentum toward nationalization that these three conventions created was halted by the outbreak of war, but they did put the goal of nationalization on the table. With the widespread outbreak of cholera at American ports in 1866, the momentum was regained. Congress passed a temporary measure allowing the Secretary of the Treasury to employ revenue officers and revenue cutters to enforce local quarantine regulations. In 1870, Congress centralized the control of the federally

[44] Gautham Rao, "Sailors' Health and National Wealth: Marine Hospitals in the Early Republic," *Common-Place,* Vol. 9, No. 1 (October 2008), accessed November 13, 2013, http://www.common-place.org/vol-09/no-01/rao/. Confusingly, the "Marine Hospital" that was burned in 1858 was not a part of the federal marine hospital system for merchant marine sailors, but rather funded and operated by Commissioners of Emigration.

[45] Brock C. Hampton, "Development of the National Maritime Quarantine System of the United States," *Public Health Reports,* Vol. 55, No. 28 (July 12, 1940), pp. 1247-48.

sponsored Marine Hospitals with the creation of the Marine Hospital Service (MHS) and the opening of a coordinating office in Washington. With yet another major cholera outbreak in 1874, the Secretary of the Treasury again directed the MHS and revenue officers to assist in enforcing and aiding quarantine measures, and in 1878, Congress passed an act giving the MHS active quarantine enforcement powers so long as they did not conflict with state and local laws. In 1879, Congress created the National Board of Health, which was also given quarantine powers and funding to research contagious diseases. Even after Congress formalized the nationalization of regulatory authority over immigration with the 1882 Immigration Act, the awkward dance between local and federal quarantine power continued, with some new federal quarantine stations opening in the 1880s to augment existing state ones. In 1891, Congress turned over the task of medical inspection of immigrants entirely to officers of the MHS, and then removed all ambiguity with its 1893 Quarantine Act, which established a national quarantine system, gave federal officials the uncontested right to quarantine inspection, and required all vessels bound for the U.S. to obtain a bill of health from a U.S. consular office in the port of departure.[46]

The above example of the twisted route to a national quarantine authority reveals the similar turbulent seas of federalism and competing sovereignties that the Emigration Board had to navigate from its beginning. The confusion that arose over its relationship to the Quarantine Commissioners revealed the tricky balancing act the commissioners needed to play to maintain their authority, constantly redefining and renegotiating the justifications for their exercise of power.

[46] Ibid.

With the memories of the ferocious Draft Riots still fresh in New Yorkers' minds, the editor of the *Times* published a lengthy letter from a writer using the pseudonym "An American by Choice" in the fall of 1863. The missive no doubt compelled the attention of the New York State Commissioners of Emigration. At first, the writer seemed to take a nativist tack, depicting "*the* great social evil of our large cities" as "a large mass of brutalized beings, who, under our domestic institutions, have come to be considered the ruling class," clearly referencing the mostly Irish Catholic rioters. The writer argued that democratic institutions and uneducated citizens were incompatible, and that the biggest source of the illiterate was immigration. He then proposed two measures to remedy the problem: implementing national administration of immigration, and enacting a literacy test to obtain the franchise for both native-born and naturalized potential voters.[47]

The letter lays out clear and logical reasoning for nationalization. "Let immigration be made a *national* affair. Every economist, every statesman, every philosopher and historian sees it in that light; but the law reduces it to a local interest." Continuing, the writer observed,

> All of our laws in regard to immigration are framed in such a manner as if the emigrants intended to migrate to the City and County of New-York. This *State* raises commutation money from the immigrants, and it is the *State* or the *City* that has to take care of the paupers among them. The poorest, vilest and most helpless of the immigrants remain in this City, forming a layer upon layer of the volcanic substratum of our community. Why should this be? The immigrants are immigrants to the United States—not to a particular State or City."[48]

[47] "The Social Evils of Our Large Cities," *New York Times,* Nov. 29, 1863, p. 4; that the majority of rioters were working-class Irish Catholics is well established, but as Iver Bernstein points out, Irish ethnicity did not protect one from attacks by the mob if one was associated with the Republican national government. Bernstein, *The New York Draft Riots*, pp. 36-37.
[48] Ibid.

To those who might claim that there was no Constitutional basis for federal regulation, the writer pointed to the general welfare clause and the naturalization clause as providing a sufficient foundation, avoiding immigration's still controversial connection to the Commerce Clause. A federal bureau of immigration would not only take alien paupers out of the hands of local authorities, but distribute "raw labor" where it was needed most nationally, breaking open the bottleneck of the big seaports were many of the poor newcomers became trapped. To free trade advocates who resented all government interference with the laws of supply and demand, the writer countered that free trade was a sham wherever it prevented the development of a nation's productive industry. Furthermore, a federal agency would be no more invasive than the existing New York State regime: "A governmental bureau for the regulation and distribution of immigration, once established, would no more have to be considered a despotism than the institution of the emigrant depot at Castle Garden, and the compulsory landing of all emigrants at that depot." The author argued that an immigrant who intended to naturalize did not intend to become a citizen of an individual state, but of the United States. "*National* laws have to prescribe the conditions under which they may become members of the body politic; *national* laws and institutions ought to take care of them during their time of probation."[49]

During the Civil War, the federal government undertook unprecedented measures that encroached on individual lives in ways that would have been unimaginable just a few years earlier. In the decades before the war, the national state remained remote to most people. As historian Brian Balogh observes, it was "hidden in plain sight" because "many of its activities were directed at the margins of the nation": collecting customs, governing

[49] Ibid.

western territories, regulating trade with Indian tribes and forcibly removing them, policing the illegal Atlantic slave trade, etc.[50] By contrast, the Civil War required the central government—both Union and Confederate—to become intrusive presences in everyday life through measures like conscription, confiscation and impressment of private property, taking control of railroads, and direct taxation. As political scientist Richard Bensel notes, both attempted to mobilize all human and material resources in unprecedented ways. Ironically, the Confederacy—resting on the ideological foundation of states' rights—was even more reliant on the central government's intervention in its economy and society than the Union, as the agrarian and economically underdeveloped South required tight state control to best muster its comparatively meager resources. The North had a far more robust private industrial and business sector and a significant demographic advantage—both in part due to immigration—and thus did not require across-the-board intervention by the central government in the economy to support the war effort. Only the finance and banking industries experienced direct federal involvement in the form of the suspension of the gold standard and the issuance of Union greenbacks. Nonetheless, both central states skimmed off resources from civil society and took away decision-making away from local authorities, diverting them to the central governments.[51]

During this expansion of federal power, it is curious that the Union government did not take full control of immigration regulation, taking only tentative steps in that direction. The massive armies needed to fight the conflict had leaders like Ulysses Grant

[50] Brian Balogh, *A Government Out of Sight: The Mystery of National Authority in Nineteenth Century America* (New York: Cambridge University Press, 2009), p. 11.
[51] Richard F. Bensel, *Yankee Leviathan: The Origins of Central State Authority in America, 1859-1877* (New York: Cambridge University Press, 1990), pp. 94-96, 100, 116-117, 135-139, 146-153, 159-160, 168-173.

and Secretary of State William Seward thinking in terms of what we might now call managing "human resources." Congress took only tentative steps toward the vision articulated by "An American by Choice" during the war, despite the growing acceptance of increased intervention by the national state among shapers of policy and opinion. Adherence to free labor ideology likely restrained Congressional Republicans and the administration from acting too aggressively in the realm of immigration. Furthermore, they did not want to give too much government assistance enabling immigration because of the old fear of importing "foreign paupers" and that such measures might go beyond Congress's constitutional powers.[52] The Lincoln administration likely held back from the aggressive assertion of power over immigration in the wake of such measures as the suspension of *habeas corpus* and certain First Amendment rights—most notably in the case of Ohio Democratic Congressman Clement Vallandigham in 1863. Secretary of State William Seward's plan to use federal power to facilitate immigration did move forward. Even though the federal agency was subject to so many constraints as to make it ineffective, most of the commissioners of the New York Emigration Board nonetheless viewed it as a threat to their authority. This was especially true after Commissioner John P. Cumming joined the new federal bureau while at the same time maintaining his seat on the State Board. Cumming used his unique position to attempt to undermine the New York agency with an eye to having the federal agency supersede it.

In his 1864 message to Congress, President Lincoln reiterated his desire for the federal government to intervene in the realm of immigration. "I regard our emigrants as one of the principal replenishing streams which are appointed by Providence to repair the

[52] Heather Cox Richardson, *The Greatest Nation of the Earth: Republican Economic Policies during the Civil War.* (Cambridge, MA: Harvard University Press, 1997), p. 166.

ravages of internal war, and its wastes of national health and strength." He continued, "All that is necessary is to secure the flow of that stream in its present fullness, and to that end the Government must, in every way, make it manifest that it neither needs nor designs to impose involuntary military service upon those who come from other lands to cast their lot in our country."[53] Lincoln's words emphasized governmental non-coercion in the migration process, countering immigrants' concerns about military impressment that no doubt contributed to the precipitous decrease in immigration in 1861 and 1862. Lincoln was no doubt afraid that an aggressive assertion of federal power over immigration, even if unrelated to military recruitment, still would have the effect of scaring off potential migrants.

As "American by Choice" implied, the Constitutional basis for a national immigration authority remained murky, which also hampered a move in that direction. Whether or not the migration of free individuals was overseas commerce (as opposed to slaves and indentured servants who were clearly articles of commerce) and subject to federal regulation by the Commerce Clause, or something else entirely remained unresolved. The appropriate range of federal action in the realm of immigration had been left in a chaotic state by the 1849 U.S. Supreme Court *Passenger Cases* decision (see Chapter Two). Despite such confusions, the depiction of immigrants as mere "articles of commerce" was becoming untenable. Immigrants were not mere objects, but people coming of their own free will and by their own means. Coming by one's own means and volition was increasingly perceived as the chief criterion for citizenship, an indicator of one's capacity for self-support. It was this idea of free will that was central in building a case against Chinese immigrants in the rhetorical construction of the "coolie," which was

[53] "Message of the President," *New York Tribune,* Dec. 7, 1864, p. 2.

well under way by the outbreak of the war. Immigration historians assert that nearly all Chinese migrants in the nineteenth century came to the US of their own free will, but this historical reality was undercut by the representation of the coolie, which was not a legal category, but according to historian Moon Ho-Jung, "…a conglomeration of racial imaginings that emerged worldwide in the era of slave emancipation, a product of the imaginers rather than the imagined."[54]

In February 1862, Congress passed a bill prohibiting American citizens from participating in the "coolie" trade with American vessels, demonstrating that such sensitivities were reaching a critical mass during the war.[55] This legislative momentum lead to the Page Act of 1875 and the Chinese Exclusion Act of 1882, premised on the idea the Chinese workers could not truly be "independent" and thus ineligible for republican citizenship.

By 1863, the idea that the federal government should assume power over immigration had gained some popular currency, and was increasingly debated in newspaper editorials and other forums. Federal assertion of power over immigration would be perceived as moving toward a more direct relationship of citizenship was tampering with the very definition of citizenship and the mechanisms surrounding it. Many Republicans viewed nationalization as a means to make the national distribution of labor more efficient, easing overcrowding and unemployment in the big Eastern seaboard cities. Conversely, Democratic wage-earning New Yorkers feared the national government's capacity to manipulate or subsidize immigration to cheapen wage labor, at a time when freedmen from the South might be used to do the same.

---

[54] Moon Ho-Jung, *Coolies and Cane: Race, Labor, and Sugar in the Age of Emancipation* (Baltimore, MD: Johns Hopkins University Press, 2006), p. 5.
[55] *Congressional Globe*, 37th Cong., 2d sess., 1862, pp. 340-341.

While Republicans had no such schemes to introduce free black labor into the North—in fact, Lincoln still clung to the chimera of "colonization" in the early years of the war—these anxieties were real. As historian Najia Aarim-Heriot has written, draft rioters sought to stop any entry of non-whites into white labor sectors. "Like anti-Chinese actions in California, these riots also demonstrated that African Americans served as a convenient scapegoat for white laborers who sought to make sense of the structural changes affecting their livelihoods."[56] As we shall see with the reactions to the passage of the Immigration Act of 1864, New York wage-earners feared federal manipulation of the labor market, whether it be to introduce freed blacks or "indentured" whites, undermining and degrading "free labor." The contested ideas about what constituted "free labor" had roiled wage-earning New Yorkers across the antebellum period, as exampled by constant debates over contractors using prison laborers at rates well below their free labor equivalent. For example, in the 1840s New York State passed laws restricting the use of convict labor in industries in which free labor was not employed, making prison labor less productive overall. These laws had the unintended effect of breaking down prison discipline, so during the Civil War, prison authorities were once again open to contracting convict labor to private contractors for enormous profits, especially as the need for war materiel escalated. The use of contracted prison labor had become so prevalent during the war that the members of Congress drafting the Thirteenth Amendment exempted penal servitude "from the otherwise universal of prohibition upon slavery, involuntary servitude, and the badges of slavery."[57] Anxieties about coerced

[56] Najia Aarim-Heriot, *Chinese Immigrants, African Americans, and Racial Anxiety in the United States, 1848-82* (Urbana, IL: University of Illinois Press, 2003), p. 73.
[57] Rebecca M. McLennan, *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776-1941* (New York: Cambridge University Press, 2008), pp. 84-85.

labor and degradation of the labor of white wage earners nonetheless remained highly prevalent throughout the North.

The main architect of the 1864 immigration bill was Secretary of State William H. Seward, whose political influence had been a key component in passing the law that created the New York Emigration Board in 1847, and who had initiated an effort to use U.S. consulates in Europe as emigration promoters in 1862 and 1863. As a US senator he had also been instrumental in the 1855 revision of the federal passenger act. The bill aimed to provide federal assistance to efforts to bring much needed skilled industrial workers to the United States, seeking to pay immigrants' passage in exchange for a labor contract of one year. The first version of the immigration bill put the federal government in the role of extending credit to individual contracted immigrants, but this proved politically untenable. The *Times* editorialized against this iteration of the bill in April 1864, saying that the United States government itself would be cast as a degraded immigrant runner or purveyor of indentured labor in Europe. Furthermore, the writer disinterred the old trope of foreign countries "dumping" their paupers on the United States, noting that such a system "would export to us the very refuse of the sinks of Germany and Ireland," which misinterpreted the bill's intention of bringing only skilled workers to the US.[58] Ultimately, the credit provision was dropped, and the business of extending credit for passage would be given to the quasi-private concern, the American Emigrant Company, that was chartered under the law. This distinction of a private company facilitating financial transactions supposedly addressed the ideological concern over "free" immigration untainted by government interference or coercion. Such

[58] "The New Bill to Promote Emigration," *New York Times,* April 18, 1864, p. 4.

concerns were integral to the emerging construction of the Chinese immigrant as a dependent, slave-like "coolie."

President Lincoln signed "An Act to Encourage Immigration" on July 4, 1864. The law created a new federal office of the Commissioner of Immigration in Washington, D.C. within the State Department, with a subordinate official, the Superintendent of Immigration, in New York City. The primary duties of these officials were the approval and registration of contracts, the promotion of European emigration to the U.S., and the gathering of information about the demand for labor in various parts of the country. In New York, the employees of the private company and the federal superintendant's office shared the same office space at No. 3 Bowling Green, roughly a 600-foot walk across Battery Park to the entrance of the nation's main reception center for immigrants, the Castle Garden Emigrant Depot, operated by the New York State Emigration Board, the foremost symbol of the old system the proponents of the new agency hoped to replace. The architects of the new agency gave it a fairly limited initial scope, but hoped that it would lay the foundation for a new, more rationalized national system of immigrant distribution.

In September 1864, the Mayor of New York City, Charles Godfrey Gunther, publicly declared his disgust with the federal government's new system. In an angry letter published in the *New York Times* on September 15, Mayor Gunther railed against what he viewed as an unholy federal/private conglomeration that sought to create a new form of indentured servitude for white Europeans, which would open up a steady stream of strikebreakers in a city wracked by labor agitation. In his written outburst, Gunther called the law's luring of immigrants to a country in the midst of a bloody civil war an

inhumane and immoral project. He noted that these laborers would find economic conditions highly unfavorable, with half of their wages being absorbed by taxation, with the other half greatly diminished by inflation. Furthermore, he stated, the "articles of apprenticeship of these 'redemptioners'" created a "species of servitude, resembling that of Mexican 'peonage,' of which white men, the equals of any on earth, are to be the subjects." Gunther omitted that the maximum length of the contract was only a year—compared to five-to-seven years of earlier indentures—but likened the system to peonage since a lien could be placed on the wages, land, and property of an immigrant until the debt for passage was paid off.[59] According to Gunther, the act was a covert means to supply more bodies to fight the civil war that he despised. He concluded, "These 'importations' are to be food for powder, or to paralyze the laboring population, so as to prevent 'strikes' caused by an inflated currency, to neither of which I can give my support."[60]

In reality, the 1864 "Act to Encourage Immigration" merely articulated a new role for "the state" in immigration, as an active facilitator of what was already happening. Responses like that of Mayor Gunther greatly misinterpreted the intention of the law, which was to promote the contracting of highly skilled workers, a practice that had continued on a small scale through the 1830s, 1840s, 1850s, well after the collapse of the indentured servant trade in 1820. Prior to the 1860s, skilled workers, despite signing contracts for three or four years, were considered "free" because there were no criminal penalties for breaking the terms of the contract; remedies of local law were all that was

[59] *Times,* September 15, 1864, p. 5.
[60] *New York Times,* September 15, 1864, p. 5.

available to employers whose contracted laborers fled.[61] The 1864 law did add a federal mechanism for contract enforcement, which did lend some credence to Gunther's otherwise exaggerated and even false statements about the extent of the expansion of federal power that the law represented.

Gunther of course was playing at partisan politics; he was a Peace Democrat who had been elected as a repudiation of his immediate predecessor, the radical Republican George Opdyke. But Gunther's words did reflect genuine anxieties shared among the segment of the city's population who felt most oppressed by the wartime burdens imposed by the federal government, like the draft, taxation, and inflationary paper money. As historian Iver Bernstein has written, most votes for Gunther in the 1863 came from poorer, peripheral wards with immigrant majorities. Many were small proprietors and laborers who had not shared in the economic boom that the pro-war Tammany manufacturers enjoyed. With the war dragging on in 1863 and 1864, this group "…wanted nothing more from the federal government than some assurance that they would be left alone."[62] Another key factor contributing to Gunther's outrage was the sense that the new agency infringed on the authority of the New York State Emigration Board. With that Board well established, the new federal immigration authority seemed sinister to those who adhered to states' rights principles. Gunther was well acquainted with the workings of the Commissioners of Emigration as he served as one by virtue of his office.

The final version of the "Act to Encourage Emigration" nonetheless posed a direct challenge to the New York Emigration Board and to the idea of "free migration," despite

[61] Robert J. Steinfeld, *Coercion, Contract, and Free Labor in the Nineteenth Century* (New York: Cambridge University Press, 2001), pp. 29-38.
[62] Bernstein, *The New York Draft Riots,* pp. 222-223.

being couched language that tried to hide this fact. The law stepped across a line of passive protection to active management of migrants, establishing a system in which private companies could contract skilled laborers overseas and guarantee that those contracts would be enforceable in the US, which had coercive implications not unlike those of indentured servitude. Overseeing this process was a newly created Commissioner of Immigration in Washington and a superintendant in New York who would book inland transportation for contracted laborers. The language of the law attempted to assuage the obvious tensions it would create between the two agencies by noting that duties of the office of the superintendant "shall not be held to affect the powers and duties of the commissioner[s] of immigration of the State of New York," and encouraged cooperation between the two agencies. It also forbade individuals being contracted for the purpose of enlisting in the Army or Navy, a major concern of the Emigration Board. Despite these provisions, the law immediately generated friction between the two agencies.

Soon after the law passed, General James Bowen was appointed the federal Commissioner of Emigration. Bowen was an old ally of Seward and Thurlow Weed, and brought considerable administrative acumen to the table, having served as an executive for the Erie Railroad, as one of the first commissioners of the Metropolitan Police, and as a Union brigadier general administering the military government in New Orleans. As noted previously, one of the New York commissioners, the Republican contractor John P. Cumming, served as Bowen's superintendent in New York. Cumming did not resign his State Commissioner post, and served in both capacities simultaneously through 1866. Cumming had served as State Emigration Commissioner since 1856, having been

appointed to the post by Whig Governor Myron Clark. But he apparently found the Board's conservative attitudes toward federal power and the encouragement of immigration during the war years as an impediment to the war effort and the development of national economy.

In his first letter of instruction to Cumming, Bowen outlined what he saw as the proper relationship between the two agencies (not mentioning Cumming's position in the other): "The objects of Congress and of that Commission are the same, and it will be your aim to act in entire harmony with it, furthering its views as far as may lay in your power and relying much in your own action on the experience, wisdom, and integrity of that Board."[63] But ultimately, Cumming failed to act "entirely in harmony" with the Emigration Board, and in fact made a play to undermine it. Under the state Board's mandate, Cumming submitted a report to the "Castle Garden Committee" on March 10, 1866, detailing the extent to which inland transportation companies obeyed laws pertaining to immigrant fares, and came to the conclusion the Emigration Board not only was inadequate to enforce such laws, but that railroad concessions within Castle Garden overcharged immigrants for passage and freight. Cumming intimated his ultimate goal by suggesting that the State Board request that the United States Commissioner of Immigration conduct a bidding process among all of the trunk lines from New York into the interior and have the cheapest one be awarded the contract, or if all of the bids were uniform, the business could be divided equally among them.[64]

Cumming promptly resigned from the Board himself and had his allies in Congress introduce a bill that would have taken away of the state Emigration Board's

[63] Record Group 59: General Records of the Department of State, 1763 – 2002, Records of the Office of the Commissioner of Immigration, Letters Sent, 1864-1867, p. 1, letter 1. NARA II.
[64] *Report of John P. Cumming* (1866), p. 12.

powers and turned them over to the federal Immigration Commissioner's office. The state commissioners fought Cumming's accusations with vitriol by declaring his naked self-interest. In a widely published statement, they noted, "It is not … improper to let the public know here that Mr. John P. Cumming holds the office of United States Superintendent of Emigration, as well as of State Commissioner of Emigration, and that a bill is now before Congress purporting to amend the laws in relation to Immigration, which seeks to deprive the State Commissioners of their most important powers and duties, and to devolve them upon Mr. Cumming." They continued that the bill would, "…give Mr. Cumming and his men the entire control of all emigrants, and would entirely break up the business of Castle Garden, deprive the emigrant of the protection and care…and leave him once again at the mercy of the runners and boarding-house sharks who have been so effectually stripped of their nefarious business by the laws of the State which Mr. Cumming is attempting to override and surrogate by a law of Congress." The statement noted that the character of Cumming's intention was made clear by his hiring of a notorious immigrant runner, George "One-Eyed" Daley as his assistant, and then concluded: "In short, Mr. John P. Cumming, holding his office against the judgment and wish of Gov. Fenton, and finding himself in political opposition to the majority of the State Commissioners, seeks by a tricky piece of legislation, at Washington, to secure the power under the United States which he cannot hope long to retain under State authorities."[65]

Overall, the Federal Immigration Office proved too short lived for any significant jurisdictional conflict to arise; with its limited funding and administrative

[65] "The Commissioners of Emigration and the Castle Garden Railroad Agencies," *New York Tribune,* June 7, 1866, p. 7.

capacity, it never was in the position to pose any serious challenge to the state agency. Despite the considerable direct involvement of Secretary of State Seward, the federal office had too little success in contracting skilled workers to avoid having its funding cut off in 1867, and the law that created it was repealed the following year. Agents of the American Emigrant Company often found a hostile reception in Europe, and while the firm did manage to import a limited amount of skilled workers, potential employers often perceived the fees for its services as too costly.[66] The American Emigrant Company did survive the repeal of the act, but Congress eventually outlawed the practice of importing overseas laborers with the Alien Contract Labor Act of 1885, also known as the Foran Act.

The New York Emigration Board outlived the federal Office of the Commissioner of Immigration, but as will be detailed in the epilogue, the state agency began running into constitutional and fiscal difficulties in the mid-1870s, which again turned policymakers' attention to the idea of nationalizing immigration authority, which finally happened in 1882. But in the 1860s, politicians and policymakers were not yet ready. The federal Office of Immigration established in 1864 could not have had poorer timing in trying to implement even its modest national system of contracted immigrant labor. During the Civil War, the debate over who was eligible to become a member of the body politic was in a volatile state, with racial sensitivities heighten by emancipation and Chinese migration to California. Furthermore, Seward's vision for the federal Office greatly outstripped the actual funding and administrative capacity that existed, in ways not dissimilar to the Freedmen's Bureau. Despite being relatively modest in scope, the federal effort flew in the face of the widespread attitude that the immigrant who came

[66] Erickson, *American Industry and the European Immigrant,* pp. 16-22.

unassisted and of his own free will—without any taint of coercion or dependency—was the only newcomer fit for citizenship.

In the US, the New York Emigration Board succeeded in performing this sleight of hand, making free migration possible through extensive intervention: protecting the independent but vulnerable migrant from depredations, preventing him from falling into economic dependency. The federal Office of Immigration, by contrast, left itself ideological vulnerable, appearing to promote a form of dependence and coercion even though its architects viewed their efforts in an entirely opposite light. It was this contradiction that the cantankerous and racist Mayor of New fulminated against in September 1864.

Unlike nearly everything else that surrounded it, the Emigration Board was not significantly transformed by the Civil War, and this instinct to hold steady is what may have doomed it to its slow and agonizing demise over the 1870s and 1880s. Its great achievement was to consolidate and maintain the gains that it had achieved before the war. The agency was nearing what political scientist Daniel Carpenter has called "bureaucratic autonomy"—the ability to initiate and execute policy on its own authority—but was still reliant on the reputations of the individual commissioners to get things done . In his study of executive agencies' ability to make independent policy from the Civil War through the Progressive Era, Carpenter notes, "A bureaucracy is an organization, and its autonomy (or lack thereof) is premised on its organizational reputation and the networks that support it."[67] The Board itself remained a creature of the

[67] Daniel P. Carpenter, *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862-1928* (Princeton, NJ: Princeton University Press, 2001), p. 4.

antebellum era in terms of state development since its reputation was tied to an older concept of civic republicanism that relied on the service of the community's elites. With the death of Gulian Verplanck and divestment of other key commissioners like Friedrich Kapp by 1870, its outmoded means of wielding authority left it vulnerable to a takeover by the Tweed Ring in 1870. The effectiveness of the Board thus fluctuated along with the reputations of the commissioners who ran it. Nonetheless, it would be impossible to deny that the administrative law that serves as the backbone of the twenty-first century massive federal immigration bureaucracy has its early roots in the New York Emigration Board.

CHAPTER FIVE: THE DISASTROUS DECADE

The five years following the Civil War marked the high water mark of the prestige, influence, and operational capacity of the Emigration Board, not so much because of any internal transformations, but on account of growing public acceptance and even appreciation of the regime's role. Politicized bickering over corruption and patronage continued as before, but it seemed to have less of an impact on the Board's reputation. A December 1866 editorial in the *New York Herald*—a Democratic paper, although independent from Tammany—called the Board "one in a batch of wildcat commissions, without responsibility to any authority, that were founded by Weed and his political lobby friends years ago as remunerative jobs."[68] By contrast, most commentators after the war came to view the commissioners and their institutions with a sense of civic pride and wonder. The agency had its flaws, but in sum total, it increasingly was seen as a humane and beneficial endeavor that eased newcomers' path to citizenship and economic independence.

During this period of stability, only a few observers, including one energetic German-American who served as commissioner from 1867 to 1870, paid attention to the clear indications of forthcoming existential threats to the Emigration Board. The signs were not hard to read. Calls for the nationalization of immigration control became more frequent, especially from westerners who resented New York's taxation of newcomers en route to their states. A legal challenge over the constitutionality of the "head tax" that funded the Board's operations certainly seemed likely, especially since the steamships that carried most steerage passengers were no longer owned by New Yorkers as the

[68] "An Investigation into Castle Garden," *New York Herald,* Dec. 15, 1866, p. 6.

sailing vessels in the trade had been in the recent past (even then, the *Miln* case and *Smith v. Turner* had been brought by foreigners). The expanding influence and increasing boldness of the Tweed Ring was even more ominous to officials in state and municipal agencies. Even if the commissioners were able to foresee these problems, it is questionable much could be done to mitigate them.

The Castle Garden regime had not only taken on an air of permanence, but had also become an object of public fascination. It drew countless tourists, gawkers, and flaneurs to the Battery to take in the scene. By the late 1860s, the squat, circular structure at the tip of the Battery had attained an iconic status, a synecdoche for the whole array of debates swirling around immigration and its regulation both pro and con. Many writers and artists came to depict the throngs of humanity passing through the old fort and the process that they underwent in their first hours on American soil. The glimpse into Castle Garden became a journalistic staple over the next few decades. Some of these pieces celebrated the Commissioners' regime in high-flying nation-building rhetoric, such as one by the *Times* correspondent in September 1865 who framed the Board's institutions as part of the national project to populate and develop the West in the wake of Civil War, a culmination of the Free Soil vision. Opening a piece that described the regime's operations in detail, the writer waxed, "The gateway of the vast Western prairies is the Castle Garden portal; the entrance to the boundless resources of the Continent is the sliding door at the Battery."[69]

Even the *Herald,* a paper usually critical of the Board, praised it when an editorialist got wind of a Tammany plan to replace it with a municipal body in 1869. For

[69] "Immigration: Remarkable Increase in Travel from Old World to New," *New York Times,* Sept. 12, 1865, p. 1.

the interior states Castle Garden was "their depot of supply for bone and muscle, and its benefits are known throughout the whole broad area of the West." New Yorkers "take pride" in the "world-renowned establishment at Castle Garden." The writer continued, "Party spirit and mercenary gain are both excluded from its management, and if it were possible to render it any greater haven of security and comfort for the thronging foreigners of all nations that pass through its portals, nothing but wants of means alone would stand in the way of its being done."[70]

Even in the 1880s, when the Board had been subcontracted to federal authorities and its reputation greatly diminished, Castle Garden still managed to evoke feelings of civic pride. In William Dean Howell's 1889 novel, *A Hazard of New Fortunes,* a Boston couple recently moved to New York strolls through the Battery and come upon Castle Garden to take in the immigrants making their way forth from it. The scene immediately conjured feelings of nationalistic paternalism in them, seeing the Garden as a safe space offering temporary respite from the challenges to come:

> It warmed their hearts…to see the friendly care the nation took of these humble guests; they found it even pathetic to hear the proper authority calling out the names of such as had kin or acquaintance waiting there to meet them. No one appeared troubled or anxious; the officials had a conscientious civility; the government seemed to manage their welcome as well as a private company or corporation could have done. In fact, it was after the simple strangers had left the government care that March feared their woes might begin; and he would have liked the government to follow each of them to his home, wherever he meant to fix it within our borders.[71]

Other writers chose not to emphasize nationalistic sentimentality, but evoked wonder and titillation mixed with moralizing condescension in the vein of the American version of the lurid "mysteries of the city" genre pioneered by Ned Buntline and George

[70] "The Designs of Democracy," New York Herald, Nov. 29, 1869, p. 5.
[71] William Dean Howells, *A Hazard of New Fortunes,* Vol. II (New York: Harper & Bros., 1890), pp. 71-72.

Foster. A contributor to the *Tribune* in 1867 crafted a warts-and-all tour of Castle Garden that dispensed with the high-flying rhetoric and paternalistic sentiment to present a more jaded and misanthropic view. He lavished detail on the sights, sounds, and especially the odor: "A deadening, stifling smell greets the nostrils as you enter the hall, almost overpowering.…. You can faintly detect *saur kraut* [sic], decayed bologna, boiled butter, peanuts, unwashed women, the odor of venerable hams, boiled corn beef and cabbage, onions, rancid cheese, and many other kindred stenches." The smell emanated from

> [a] motley crowd or rather swarm of emigrants herded together on the bare floor of the Garden, like so many sheep or pigs. From every nation in the world, from far-off Sweden and Norway, from the homes of Dalecarilla, from Sudermania, charcoal burners from the Black Forest, in their calfs, with light hair, red stockings reaching to their knees, and heavy wooden sabots. Peasants with ruddy faces from Cork and Kerry, from Dublin and Galway, fair, fresh young girls with trustful looks and laughing, wondering faces from the Danube, Rhine and Shannon, all mingling promiscuously, chatting, talking, eating, crying, or sleeping quietly.[72]

James D. McCabe's *The Secrets of the Great City*—an 1868 iteration of his later and better known *Lights and Shadows of New York Life*—offers a chapter on immigrants that surprisingly features a rather non-sensational account of Castle Garden's operations, noting that within its confines immigrants were "perfectly safe." McCabe reserves his sensational prose for the "perils" the immigrant faced "the moment he passes the gateway." Outside immigrants were "easy prey to the villains who throng the Battery in wait for them," who would sell them fake railroad tickets, take them for a drink at a saloon to be drugged and robbed, and entice female newcomers into working in brothels.[73]

---

[72] "An Hour in Castle Garden," *New York Tribune,* Jul. 25, 1867, p. 2.
[73] Edward Winslow Martin (pseudo. of James Dabney McCabe), *The Secret of the Great City: A Work Descriptive of the Virtues and the Vices, The Mysteries, Miseries and Crimes of New York City* (Philadelphia: Jones, Brothers & Co., 1868), pp. 271-275.

"A Day in Castle Garden," a March 1871 piece appearing in *Harper's New Monthly Magazine* by the Danish immigrant, journalist, and lawyer Louis Bagger, typified the genre of the journalistic tour. Accompanied by several illustrations, it details the process by which immigrants underwent a cursory medical inspection, were registered by clerks, given the opportunity to book railroad travel, pass through customs inspection, weigh and forward baggage, exchange European money for U.S. currency, have a letter home written free of charge, try to secure a job at the Labor Exchange, and apply for medical treatment or shelter at Wards Island. The piece also offers some ethnographic fragments about the dress of the Germans, Scandinavians, Irish, English, French, etc.

> Then there are the Bohemians (the genuine ones), with their many-colored scarfs and glaring jackets for the women, and the natty military caps for almost all the men; the French in their blue linen blouses; and finally the Norwegians in their curious national dress, consisting of a gray woolen stiff-necked jacket, which covers only about one-third of their back, while in the front its slopes down to greater length, and is profusely ornamented with huge silver buttons set so close together that they overlap each other.[74]

The author struck a sympathetic tone toward the establishment, the Garden's often brusque employees, and even the much maligned railroad clerks, who often encountered immigrants who knew only the name of the town for which they were destined—for example, "Farmington"—but not the state or county, leading to educated guesses. The piece ends by contrasting the relative safety and orderliness of the interior to the dangers waiting outside of the compound. Overall, Bagger's goal was not to pass judgment, but to "describe what I saw, and hope to have succeeded in imparting to the reader some idea of

[74] Louis Bagger, "A Day in Castle Garden," *Harper's New Monthly Magazine,* Vol. 42, No. 250 (Mar. 1871), p. 547-556. Quote is on p. 553.

what Castle Garden really is, and how it looks on a busy day."[75] Many pieces like Bagger's conveyed a sense of an increasing consensus that the Commissioners' regime—despite recurring episodes of corruption, mismanagement, and political favoritism—was a worthy and humane enterprise despite its flaws. Reflecting back on the Castle Garden Depot's establishment, a contributor to *Merchant's Magazine* expressed this sentiment in an 1867 piece: "The system thus established, although not absolutely perfect, has worked exceedingly well."[76]

A commissioner who very much helped to burnish this humanitarian reputation and the overall positive perception of the commissioner's regime was the influential German-American journalist, lawyer, and politician Friedrich Kapp, who served as an emigration commissioner from 1867 to 1870. A prolific journalist, lawyer, and politician, Kapp depicted the Board in this halcyon phase in his account of the agency, *Immigration and the Commissioners of Emigration of the State of New York,* which went to press in February 1870. The book, largely based on the annual reports of the Commissioners, for almost a century and a half has remained the definitive source to which historians and others have turned to produce passing references to the agency.[77]

Kapp's interest in immigration derived from personal experience, his commitment to individual rights forged in the midst of the 1848 revolutions, and his embrace of free labor ideology upon arriving in the antebellum US. Born in the province of Westphalia in 1824, Kapp studied law and philosophy at the University of Heidelberg in the early 1840s and became involved in radical socialist politics. After briefly clerking with a judge,

---

[75] Ibid., p. 555.
[76] "Emigration at New York and the Emigration Board," *Merchants Magazine and Commercial Review,* Vol. 57. No. 3 (Sept. 1867), p. 188.
[77] Friedrich Kapp, *Immigration and the Commissioners of Emigration of the State of New York* (New York: The Nation Press, 1870).

Kapp then worked as a journalist, covering the 1848 uprisings in Frankfurt. After his participation in the popular uprising against the National Assembly known as the September Rebellion, Kapp was forced to flee the German lands and settled in Paris, where he found work as a private tutor for the son of the Russian revolutionary, Alexander Herzen. French police pushed both Herzen and Kapp to Geneva in 1849, and there Kapp decided to seek a new life in the United States, as did many of the defeated 1848 Germans radicals.[78]

Kapp arrived in New York City in March 1850 and soon thereafter became an editor at the *New Yorker Abendzeitung.* He also founded a law firm while producing a torrent of pieces as journalist for German-language publications. He soon engaged with the movement to support a community of German immigrants using free labor to grow cotton in Texas, and was drawn into Free Soil political circle of Frederick Law Olmsted. This group's politics emphasized the linkages between the issues of immigration, free labor, and the anti-slavery fight. Kapp published a book-length German-language exploration of the slavery question in 1854, and in 1855, he obtained U.S. citizenship and became co-publisher of the *New Yorker Abend-Zeitung.* He rose to prominence as the leading Republican voice in the German-American community after Carl Schurz, stumping tirelessly for Republican presidential candidate John C. Frémont in 1856, asking his fellow German Republicans to look beyond accusations of Republican nativism. He served as an elector for Lincoln in 1860 and then covered the war for the

[78] A.E. Zucker, ed., *The Forty-Eighters: Political Refugees of the German Revolution of 1848* (New York: Columbia University Press, 1950), pp. 307-308.

Kölnische Zeitung. He always maintained close ties to his homeland throughout his two-decade-long American sojourn.[79]

Republican Governor Reuben Fenton appointed Kapp to the Emigration Board in 1867. He was engrossed by the work, and frequently boarded vessels and interviewed German-speaking immigrants to see what condition they were in and find out the reasons why they had opted to leave the German lands for the US. In one such exchange, as he retold to a friend, he asked a woman from Mecklenburg her reasons for coming, and somewhat suspicious of his motives in asking such a question, she replied, "I wanted to improve my circumstances; there is nothing against that, is there?"[80]

Kapp clearly saw the Board's coming legal and political challenges as calls for the nationalization of immigration authority intensified, culminating in November 1870 when governors of several western states convened in Indianapolis to petition Congress to take full control over immigration, although their efforts came to naught.[81] The other commissioners unfortunately would not have Kapp's energetic presence to aid in their coming struggles since he planned to return to his native Germany in spring 1870 to reenter politics in his native land as amnesty had been granted to Forty-Eighters.

Before his departure, he turned his considerable talents to a crafting a study of the Emigration Board that provided a thorough defense of the agency's regime. It provided careful documentation of the immense volume of aid the agency had offered to newcomers, and backed its claims with statistical data and other scientific methodologies

---

[79] Mischa Honeck, *We Are Revolutionists: German-Speaking Immigrants* (Athens, GA: University of Georgia Press, 2011), pp. 45-46, 67; "Kapp, Friedrich," Dumas Malone, ed. *Dictionary of American Biography,* Vol. 10: Jasper-Larkin (New York: Charles Scribner's Sons, 1933), p. 259; "Letter to the Editor: Frederick Kapp," *New York Times,* Oct. 30, 1884, p. 3.
[80] "Friedrich Kapp," *The Nation*, Vol. 39, No. 1010 (Nov. 6, 1884), pp. 393-394.
[81] "Commissioners of Emigration: Probable Designs of the Convention of State Governors," *New York Times,* November 22, 1870, p. 5.

that put the work into the category of the emerging positivist "social science" tradition. Kapp even presented some of its findings at the recently organized American Social Science Association in October 1869.[82] In his preface, Kapp noted the curious lack of historical spirit among Americans in a way that resonates with present-day complaints of American historical amnesia. "Is it that the task of the hour makes Americans blind to all things else?" He saw this flaw as "seriously detrimental to the most vital interests of the nation" as it prevented a grounded understanding of important issues, first and foremost immigration.

> People look with indifference at this colossal immigration of European masses, whose presence alone will exercise a powerful influence on the destinies of the Western World; National and State legislators care little or nothing for the direction which is given to this foreign element, and forget that their own welfare and the welfare of their children is indissolubly interwoven with the condition of the new-comers. In short, they are not yet aroused to the great importance of emigration, of its laws and its development, but consider it rather with an incredulous curiosity than with earnest desire to fathom its resources and foresee its results.[83]

Always maintaining his outsider's perspective in the US, Kapp couldn't understand this American inability to give the governance of immigration serious attention by the public. He was likely thinking of resources needed for nation-building in comparative terms with Reconstruction ongoing in the US and Germany's looming unification.

In his chapter, "The Capital Value of Immigration," Kapp mounts an eloquent defense of the New York State regime in the face of the calls for nationalization of immigration authority. He noted that it was the duty of Congress to regulate the shipboard conditions for immigrants in transit from foreign countries on the high seas,

---

[82] On the founding of the American Social Science Association, see Thomas L. Haskell, *The Emergence of Professional Social Science: The American Social Science Association and the Nineteenth-Century Crisis of Authority* (Urbana, IL; University of Illinois Press, 1977), pp. 91-121.
[83] Kapp, *Immigration and the Commissioners of Emigration,* p. ii.

but federal authority "completely ceases after the immigrant has landed and put himself under the operation and protection of the State laws." Kapp viewed immigration regulation as a local affair by necessity since it would be absurd to have the federal government license immigrant boarding houses or provide newcomers with transportation to railroad depots. New York was and would remain the central port through which the vast majority of immigrants traveled, so to have a regime dictated from a distant seat of authority would be "worse than unreasonable." The federal government would have to incur the expense of setting up similar facilities to Castle Garden in other ports, and the requests that the "head tax" funds be distributed to states wherever immigrants settle would lead to shortfalls in New York and corruption elsewhere. For Kapp, the venality, mismanagement, and political patronage endemic in the customhouses did not inspire confidence in the federal government's ability to administer a system of immigration regulation. Lastly, he thought the rest of the nation would be foolish to give up New York's role "as a filter in which the stream of immigration is purified." New York endured most of the evils of immigration, while the interior states enjoyed most of the benefits.[84]

Kapp returned permanently to his native land in 1870 to embark on a career as a politician in unified Germany. Upon looking back at his experiences, he seems to have become embittered toward to the US, publishing a memoir in 1871, *Ueber Auswanderung* [*On Exile*], that skewered American life. A commentator in the *New York Herald* complained that Kapp, who was "honored with fame and fortune in the US," repaid his adopted country by vilifying it in this book, describing Americans as "the most selfish, money-worshipping, dishonest, and corrupt people of modern times," and advising his

[84] Kapp, *Immigration and the Commissioners of Emigration,* pp. 154-158.

compatriots not to emigrate. The writer surmised that Kapp was spiteful because his application for the lucrative post of US consul at Frankfurt had been denied. Kapp's study of the Emigration Board, however, was unrelentingly positive. He depicted the agency in the best possible light, glossing over some of the uglier aspects of the regime's operations. He perhaps could not be objective as he was a true believer in the Board's mission, bringing a zealot's fervor to the mission of protecting the rights of newcomers and securing their future as citizens, as one might expect from a veteran of the 1848 revolutions and the Free Soil cause, both which were driven by a strong liberal conception of individual rights. As an outsider on the inside, he saw the transition in immigration regulation that the Board represented more clearly than most of his contemporaries.[85]

Adding to the Board's veneer of stability and respectability in the immediate postwar years was its fiscal health. In the latter 1860s, the Board enjoyed a brief window of operating with a surplus for the first time since its founding. The raising of the commutation fee from $2.00 to $2.50 in 1867 combined with over 200,000 aliens landing on average annually in the postwar years left the Board well into the black. The commissioners had also divested themselves of the costly quarantine operations, which had been transferred to a stand-alone agency with a separate source of funding. In 1868, the Board was at last able to settle its longstanding debt to the municipal Commissioners of Public Charities and Corrections (the successor agency to the Board of Ten Governors, with which the Emigration Commissioners had feuded in the 1850s). State-appointed adjudicators Thurlow Weed and William Havemeyer—two men intimately acquainted with the agencies in question—awarded almost $115,000 from the Emigration Board's

[85] "Literary Chit-Chat," *New York Herald,* August 20, 1871, p. 8.

commutation fund to the municipal charities commissioners for immigrants that they had cared for in city facilities since 1854.[86]

Steerage passengers created less of a burden to the Commissioners' small welfare state in the postwar years since most were arriving in a healthier condition than in the past, although outbreaks of typhoid and cholera remained common. The low-cost transatlantic passenger business had nearly completed its transition from sailing vessels to steamships. In 1870, roughly 194,000 of the 212,000 aliens landing in New York came by steam. The remaining 18,000 who came by sail suffered a markedly higher mortality rate. By 1873, 97 percent of all passengers who arrived in New York came in steam-powered vessels. Iron-hulled screw-propeller steamships provided faster passage and more capacious and hygienic passenger decks than sailing vessels or older wooden side-wheeler steamships. The conversion to steamships also meant the disappearance of American carriers from the transatlantic passenger trade, posing a new set of challenges for the Emigration Board and other U.S. authorities looking to regulate the industry.[87]

Fiscal stability allowed the Board to enter into a phase of institutional expansion. In July 1866—after several delays in construction—the new State Emigrant Hospital on Ward's Island at last opened its doors with 350 beds, with an adjoining new refuge building for homeless immigrants housing 450. Existing structures on Ward's Islands, like the fever hospitals and insane asylum, were renovated and expanded. In Battery Park several new outbuildings crowded the fenced-in area surrounding Castle Garden, including an ambulatory hospital in 1866 and a spacious new Labor Exchange in 1867,

[86] "Commissioners of Emigration," *New York Times,* Mar. 5, 1868, p. 5.
[87] *Annual Report of the Commissioners of Emigration for the Year Ending December 31, 1870* (New York: New York Printing Company, 1871), p. 17; Raymond L. Cohn, "The Transition from Sail to Steam in Immigration to the United States," *Journal of Economic History,* Vol. 65, No. 2 (June 2005), p. 493.

which *Harper's Weekly* called "one of the most valuable and successful institutions in New York" after it found employment for almost 13,000 immigrants in the first half of 1868. In 1869, the Commissioners opened a new storage and handling facility for luggage with roughly 25,000 square feet of space. In 1870, the city granted the Commissioners an additional thirty feet of space around the perimeter of the enclosure of Castle Garden, enabling the erection of a new fence and the expansion and renovation of outbuildings. A direct telegraph line connected Wards Island to Castle Garden so that inmates could be notified if a remittance or money order had been received at Castle Garden, or so that friends or relatives could inquire quickly about an inmate on the island. The officials and staff who worked under the Commissioners were unquestionably more efficient and professionalized than in earlier eras. While still often overwhelmed, they nonetheless were building a level of institutional capacity that could cope better with the massive influx of newcomers.[88]

Kapp's study had portrayed a thriving organization, one that was thoroughly integrated into the political and administrative fabric of the city and state. Yet the Board's heyday would end soon after the work's publication; the 1870s would prove catastrophic for the agency. Ominous signs appeared on the horizon as Kapp prepared to depart for Germany. Locally, the specter of the Tweed Ring hovered over all government agencies. The Ring seemed unstoppable in its mission to saturate the city with its corrupt influence, and was perfectly willing to reshape all public offices at the city, county, and state level to

[88] "The State Emigrant Hospital," *New York Times,* July 12, 1866, p. 8; "The City," *New York Herald,* Aug. 8, 1866, p. 4.; *Annual Report of the Commissioners of Emigration Ending December 31, 1869* (New York: Douglas Taylor's Commercial Printing House, 1870), pp. 12, 20-21; "Castle Garden Labor Exchange," Harper's Weekly, Aug. 15, 1868, p. 518; *Annual Report of the Commissioners…Ending December 31, 1870,* pp. 21-24.

generate more boodle and insulate itself from prosecution. Even Kapp himself received a taste of Tammany's growing sense of impunity during his final months in the country. In the fall of 1869, he was nominated as a candidate for Secretary of State of New York on the Republican ticket, but declined the offer as he was already planning to leave the country. Before the word of his refusal was known, Tammany operatives procured an old Irish woman to bring forgery charges against him, and Kapp was arrested and brought before Justice Hogan of the Tombs Police Court (the Tammany judge was well known as a former immigrant runner). Kapp was released, however, when it was discovered that he had declined the nomination and that nothing would be gained politically from the charade.[89] The incident nonetheless illustrated that no one was impervious to the Ring's bare-knuckled tactics, not even a respected member of the Emigration Board.

Nationally, resentment of New York's control over as much of two-thirds of the immigration flowing into the interior of the country was becoming organized, in many ways mirroring the movement to nationalize quarantine as detailed in the previous chapter. In 1867, an editorial in the railroad trade journal, *The Iron Age,* observed, "The people of the Western and Southern States are awaking to a sense of importance of the Emigration question. They are learning the great value of foreign labor which is now flowing into the country in such vast and increasing volume, and in every direction we see evidences of their anxiety to obtain their share of it." The author noted that tax on each immigrant collected by the State of New York—recently raised to $2.50—was an obstacle to the free flow of foreign labor to the interior, and questioned, "Why should the hundred thousand immigrants going this year to Iowa and Minnesota and Wisconsin and Illinois be taxed by the City of New York two hundred and fifty thousand dollars?" But

[89] "The Week," *The Nation,* Vol. 22, No. 227 (November 4, 1869), p. 378.

even worse, according to the writer, was that the Emigration Board only allowed three railroad lines to sell tickets at inflated prices within the Garden, in effect instituting a transportation monopoly. [90]

These sentiments led governors of seven western states to convene a national meeting in Indianapolis in November 1870 with the ultimate aim of petitioning Congress to create a "National Immigration Bureau."[91] The governors crafted and forwarded a bill to Congress that failed to pass, but it nonetheless pushed the issue of federalizing immigration control on to the national agenda. Pressure was not only coming from the Midwest, but also from California, where many whites were anxious about Chinese immigration and potential ramifications of the newly ratified Fifteenth Amendment. In 1870, Chinese migrants made up almost 9 percent of that state's overall population. Several state and local anti-Chinese laws passed in California in the 1850s and 1860s had been declared unconstitutional, so white Californians looked to the federal government to restrict Chinese immigration. Their arguments against Chinese "coolie" labor mirrored earlier Free-Soil arguments about how slavery or even the labor of free blacks degraded free white labor. [92] To obtain a national ban on Chinese immigration, the New York Board would need to be subsumed by national authority. Local developments, however, were already at work that would undermine the legitimacy of the seemingly robust New York State agency.

---

[90] "The Emigration Commissioners of New York" from *The Iron Age,* as reprinted in the *Iowa State Register,* July 3, 1867, p. 3.
[91] "A National Bureau of Immigration," *New York Times,* Nov. 11, 1870, p. 4; "Commissioners of Emigration: Probable Designs of the Convention of State Governors," *New York Times,* November 22, 1870, p. 5.
[92] Najia Aarim-Heriot, *Chinese Immigrants, African Americans, and Racial Anxiety in the United States, 1848-1882* (Urbana, IL: University of Illinois Press, 2003), pp. 156-157; Gerald L. Neuman, *Strangers to the Constitution: Immigrants, Borders, and Fundamental Law* (Princeton, NJ: Princeton University Press, 1996), p. 37.

The Tweed Ring had commenced its steady accrual of money and power in the late 1850s, shortly after William Magear Tweed was appointed to the newly created County Board of Supervisors (a body established to thwart Tammany power over municipal government) in 1857. By the late 1860s, the Ring's members had amassed millions in ill-gotten gains through fraudulently padding city contracts. In their quest to preserve and expand their growing empire, Ring members sought to destroy all state oversight of city government and create new sinecures for their loyal followers. They operated essentially in plain sight through bribes and by electing their own men through whatever means fair or foul to offices in charge of oversight. Tweed himself was elected state senator in 1867, and at the same time, held seventeen other offices on the county and municipal level. As state senator, Tweed helped pave the way for financiers Jay Gould and Jim Fisk to seize control of the Erie Railroad—one of the major conduits for immigrants passing through Castle Garden—from Cornelius Vanderbilt. Tweed spearheaded the effort to pass a bill that legitimized fraudulent stock Gould and Fisk had issued, and was rewarded with membership on the board of directors of that lucrative corporation.[93]

The biggest victory for the Ring came with its taking the reigns of the state government through fraud and bribery. In 1867, Tweed's deep pockets assured the election of a Democratic majority in the State Assembly. The following year, Tweed was able to accomplish the same in the State Senate, and also elect a former Tammany Grand Sachem to the governorship, John T. Hoffman. Democrats had a majority in both houses for the first time in sixteen years. With this takeover complete, the Ring set about dismantling many of state controls over city affairs that had been put into place during

[93] Alexander B. Callow, Jr., *The Tweed Ring* (New York: Oxford University Press, 1966), pp. 197-206.

the first term of Mayor Fernando Wood in the 1850s. What was later known as the "Tweed Charter" proposed in March 1870 reshaped city, county, and state governance in favor of city rule, abolishing or reconfiguring "Republican" institutions. First and foremost, it eliminated the County Board of Supervisors—an agency with considerable fiscal oversight that was mandated by law to be bipartisan, and which was one of the last possible checks on the Ring's power. It was replaced with a Board of Audit that would be half appointed by the mayor and half elected by the people, and thus easily stocked with Tweed men. Over the next year, the measure enabled an exponential increase in fraudulent contracts.[94] The Board of Education would be selected in the same manner, and the Fire Commissioners would be appointed by the mayor and approved by the Common Council, the Police Commissioners would be elected, and the Central Park Commission would also be brought under city control. All of these changes brought patronage firmly under Tammany control.[95]

As a prominent state agency, the Emigration Board could not escape the attention of the Ring. Two events in February and March of 1870 provided the opening for the Tweed-dominated state legislature to insert itself into the Commissioners' affairs: a possibly not-so-spontaneous "riot" on Ward's Island on February 28 involving immigrants housed at the Emigrants' Refuge there, and the death of the long-time President of the Board, Gulian C. Verplanck, on March 18. These two occurrences opened a window of opportunity for the Tweed-dominated state legislature. The disorder on Ward's Island enabled it to launch an investigation into the Commissioners affairs and

[94] Callow, *The Tweed Ring*, pp. 197-206; De Alva Stanwood Alexander, *A Political History of the State of New York,* Vol. III: 1861-1882 (New York: Henry Holt & Co., 1909), p. 228.
[95] "The State Capital: The New York City Charter Finally Agreed Upon," *New York Herald,* Mar. 10, 1870, p. 7

propose a bill to reconfigure the Board to the Ring's advantage, while Verplanck's death made these drastic changes easier.

By 1870, the Commissioners operated what was essentially a small city on Ward's Island. At 10:00 a.m. each day, a steamboat departed from Castle Garden carrying immigrants to Ward's Island who had applied for assistance because they were sick and needed medical treatment or were indigent and needed food and shelter. On January 1, 1870, there were 1,959 inmates distributed across various facilities, and over the following year, over 14,000 people were admitted to them.[96] The institutions on the island included the Verplanck State Emigrant Hospital with 450 beds, a nursery to house small children, a Refuge building designed to house roughly 450 indigent women, a barracks for about 450 indigent men, a lunatic asylum, separate fever ward buildings for men and women, a boy's barracks, residences for officers and staff, workshops, and fields to grow crops. A pipe from Manhattan brought fresh Croton water to the island.[97]

The able-bodied indigents in the Emigrant Refuge were expected to perform some basic agricultural and other manual labor in support of the institution, but on Monday, February 28, 1870, a group of about 300 inmates had come to the conclusion that this was too much to ask of free people, declaring that they were being treated as slaves. Armed with clubs, paving stones, and other blunt instruments, they gathered around the office of the island's superintendant, Leonard R. Wells. He had incurred their wrath by detaining three English immigrants—Stephen Meadow, William Milton, and Alexander Merrick—who had organized a protest meeting of inmates on February 25. Those gathering drew up a resolution and favorably voted upon it, which declared that it was "an act of

[96] *Annual Report of the Commissioners of Emigration of the State of New York for the Year Ending December 31, 1870* (New York: The New York Printing Co., 1871), pp. 4, 30.
[97] Kapp, *Immigration and the Commissioners of Emigration*, pp. 131-141.

degradation and oppression for Europeans to be compelled by threats, intimidation, and violence to work without remuneration, and that we will submit to it no longer." German immigrants at the Refuge met soon after and adopted a resolution following the English example.[98]

According to the *Times,* Superintendent Wells mustered a dozen men armed with revolvers who managed to hold off any violence before a platoon of police from the Twelfth Precinct could arrive. Upon arrival, the police under the direction of Wells shepherded the protesters on to an awaiting scow, which towed them to Manhattan and set them loose. They then proceeded to march down Third Avenue, reassembling in front of City Hall where they reorganized into a mass meeting and vocally reiterated their previous resolutions. A City Labor Department official successfully convinced the protesters to take their grievances to Castle Garden, which they did. Upon their arrival, the Garden's superintendant, Bernard Casserly, refused to receive them as a formal delegation, but encouraged them to apply for work at the Labor Exchange and offered them temporary food and lodging at Castle Garden until they found work. The protesters then dispersed, with the leaders still dissatisfied with the outcome.[99]

In the heated Reconstruction political environment in which the concept of "free labor" had become so thoroughly racialized that it was not surprising the inmates invoked their "European-ness" as rendering unremunerated work degrading for them to undertake. Sensitivity surrounding race and labor was heightened not only by the recent passage of the Fourteenth Amendment, but also due to factory owners' experimentation with the importation of Chinese labor, often to break strikes. Just a few months after the Ward's

[98] "Emigrant Troubles," *New York Times,* Mar. 1, 1870, p. 1; "Mutiny on Ward's Island," *New York Tribune,* Mar. 1, 1870, p. 5.
[99] "Emigrant Troubles," *New York Times,* Mar. 1, 1870, p. 1

Island incident, a shoe factory owner in North Adams, Massachusetts, imported about seventy-five Chinese laborers to break a strike, a development widely covered in the national press. The emerging labor movement in the U.S. propagated the view that Chinese workers were willing to accept lower wages and poorer working conditions than what white workers would tolerate.[100] Furthermore, the idea that whites not convicted of any crime would work and not be paid was indeed controversial. Even the use of contracted prison labor was increasingly called into questioned during the Radical Reconstruction years. State legislators pressured by the emerging labor movement passed reforms to limit if not outright abolish the profit-driven system of contracting of prison labor that had been prevalent in the North during the war.[101]

The "riot" provided the Tammany-dominated state legislature its opportunity for aggressive intervention. It assigned an investigation into conditions on Ward's Island to the joint standing Committee on Commerce and Navigation. On Saturday, March 5, the committee members visited the island, and while finding the hospitals satisfactory, they avowed that the conditions in the Refuge facilities were wanting. The inmates that they interviewed testified that they were served "wretched meals, with dirty bits of meat, watery soup and very small pieces of bread," and that they were not provided with utensils, having to eat with their hands. Furthermore, the barracks were poorly lit and ventilated, and damp, and only four washbasins and two towels provided for over 600 inmates, and the towels were changed only twice a week. Furthermore, there were no reading materials available. On Monday, March 7, the committee examined three of the

[100] See "The New Issue: The Chinese-American Question," *New York Tribune,* June 30, 1870, p. 1; and Aarim-Heriot, *Chinese Immigrants, African Americans, and Racial Anxiety*, pp. 126-127.
[101] Rebecca M. McLennan, *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776-1941* (New York: Cambridge University Press, 2008), pp. 90-94.

Emigration Commissioners at Castle Garden who oversaw the Ward's Islands operations, who testified that the island was, to the best of their knowledge, run well. Ironically, the Tweedite committee was especially concerned with the fact that one carpenter had been paid $75,000 for work done on the island with no one else being given the opportunity to compete for the jobs. The Committee collected its last testimonies at Castle Garden on Saturday, March 12. One of the ringleaders of the immigrant protests, Alexander Merrick, reiterated the previous grievances, and added that officers frequently knocked and kicked inmates, and that their bedding swarmed with vermin.[102]

The committee would issue its report in mid-April, but in the meanwhile, the Emigration Board's venerable president, Gulian C. Verplanck, died on March 18 at his home on Fourteenth Street, in his eighty-fourth year. Having served on the Board as a Commissioner since its founding in 1847 and as its president since 1848, Verplanck's almost twenty-three years of service represented a rare if not entirely unique continuity of leadership in any state or city agency. In his later years, Verplanck had come around to being a Democrat on ideological grounds, alienating himself from the city's mostly Republican mercantile and professional elites of his social circle. His loud pronouncement of Peace Democrat views during the war made him a pariah in their midst, as his removal as president of the Century Club demonstrated. Despite these views, Verplanck was still tremendously respected for his work with the Board and his varied contributions to politics, literary and legal scholarship, public education, and other charitable work. Aside from his lengthy tenure on the Board, he had served multiple terms as a US Representative and State Senator, as Vice-Chancellor of the University of

[102] "Local Miscellany: The Ward's Island Troubles," *New York Tribune,* Mar. 7, 1870, p. 2; "Ward's Island Emigrants," *New York Times,* Mar. 8, 1870, p. 6; "The Ward's Island Riot—Further Testimony Before the Legislative Committee," *New York Times,* Mar. 13, 1870, p. 6.

the State and also as Regent, and as a governor of the New-York Hospital; he was founder and president of the Century Club, and had edited a respected volume of Shakespeare, and produced a voluminous amount of literary publications.[103]

Verplanck's passing was a fortuitous occurrence to those scheming to overhaul the Board to make it more in line with the Tweed Ring's purposes. Despite his Democratic sympathies, Verplanck would not have played along with the desires of the Tweed men, and would not have been swayed by payoffs, having been born into significant wealth. Removing such a respected and well-known figure who embodied the Board and much of the goodwill that the public had toward it would have proven politically unpalatable to even the most brazen of the Ring.

A week before the committee was to issue its report, the Republican *Times* published a bitterly sarcastic editorial that gave an enticing hint of the lives of politicians under Tweed's sway. The writer empathized with the "great mental efforts" that the Ward's Island investigatory committee members had put in, necessitating them to partake of appropriate refreshments and stimulants, and thus mockingly approved of the sizeable bill they submitted to the Commissioners of Emigration for hundreds of cigars, dozens bottles of champagne, brandy, whiskey, Madeira, and claret.[104] When it was finally issued on April 14, a bill to abolish the Emigration Board accompanied it, as the *Times'* Albany correspondent had predicted. The latter claimed that the aim of the committee from the start was to dismantle the Board, and the report itself even hinted that "the

[103] "Obituary: Hon. Gulian C. Verplanck," *New York Times,* Mar. 18, 1870, p. 5; "Gulian C. Verplanck: His Life, Character, and Writings," *New York Times,* May 18, 1870, p. 8.
[104] "Labors of a Legislative Committee," *New York Times,* April 7, 1870, p. 4.

pretended riot on the island" was instigated by "New-York politicians, to furnish a pretext for the bill now presented."[105]

The bill would transfer the property and holdings of the Emigration Board to the municipal Public Charities and Corrections Commission, which included roughly half a million dollars in the bank. Tammany henchman Alexander Frear, the protégé of Ring leader Peter B. Sweeny, already possessed dictatorial control over Charities and Corrections Department. Frear was notorious for having declared bankruptcy in 1868 but becoming a wealthy man again a mere two years later through opaque means. The *Times* noted the "miraculous" turnaround in his fortune, as he was worth over $1 million by 1871.[106] On the bill before the Assembly, the *Times* correspondent wrote that it was "said to be backed up by the Tammany Ring, who are anxious for the increased patronage it will give them." The Ward's Island investigatory committee had initially proposed simply changing the personnel of the Board, and legislators followed through with a bill that passed both chambers. Governor Hoffman, however, refused to sign it as Tammany desired municipal management, so another bill was drafted. The Republican Assemblyman of the New York City delegation, John Henry White, representative of the elite "Fifth Avenue" Eleventh District, viewed the new bill as a means to "authorize the City of New-York to perpetrate grand larceny, and would be unconstitutional and null and void if passed." The one Republican member of the investigatory committee, Westchester Assemblyman James W. Husted, dissented and refused to sign the new version.[107]

---

[105] "Albany," *New York Times,* April 15, 1870, p. 1.
[106] "Frear's Fortune," *New York Times,* Nov. 4, 1871, p. 11.
[107] "Albany," *New York Times,* April 15, 1870, p. 1; "Albany," New York Tribune, April 15, 1870, p. 1; additional information on "John Henry White" is from H.H. Boone and Theodore P. Cook, *Life Sketches of*

Republicans were willing to dismiss the current commissioners, but would not to abolish the Board and turn over immigration regulation to city authorities. As the *Tribune* observed, "Adopted citizens" would have felt "insulted at their emigrant friend being turned over to the department of paupers and criminals." This political pressure led the Tammanyites to hurriedly introduce yet another bill on April 21 that reverted to the original plan of simply turning all of the old commissioners out. Late on the evening of Saturday, April 23, the Assembly passed this version, and then Senator Tweed personally rushed it through the Senate. Several Republican senators complained that they had not even had a chance to read it before the vote happened, but Tweed nonetheless muscled it through.[108] A *Tribune* editorial the following Monday lamented that present commissioners had been legislated out of power, and that the bill placed "creatures of the 'Ring'" into their places. The writer continued, "There has been no more hasty, inconsiderate legislation during the session than that by which this bill was smuggled, late on Saturday night, through the Senate; and few of the changes which have been made in the City Government will prove more distasteful to the public than this one." The editorial then offered the hope "that the National Government will soon see the propriety of regulating for itself the landing of immigrants on its shores." The writer concluded that it made no sense for the General Government to oversee the collection of customs revenue in the nation's most important port and not at the same time oversee the reception of immigrants there.[109] Many observers who had been against nationalization or ambivalent toward it shifted their positions after the Tammany overthrow.

Executive Officers and Members of the Legislature of the State of New York (Albany, NY: Weed, Parsons & Co., 1870), Vol. III, pp. 331-334.

[108] "Albany: The Commissioners of Emigration Turned Out," *New York Tribune,* April 25, 1870, p. 5.

[109] Untitled Editorial, *New York Tribune,* April 25, 1870, p. 4.

The new law mandated the old commissioners to leave office on the last day of April 1870. The old Board had six appointees and four *ex officio* members, the mayor of New York and Brooklyn and the presidents of the German and Irish Emigrant societies. The new Board would have nine appointees plus the four same *ex officio* Commissioners. On the old Board, four of the six appointed commissioners were respected members of the Republican business and mercantile elite having been appointed by Republican Governor Reuben E. Fenton, who had been in office from 1865 through 1868. In this category were Frederick S. Winston, Vice President of the Board and president of the New York Mutual Life Insurance Company; Isaac T. Smith, a prominent shipowner, merchant, banker who had opened up trade with the Kingdom of Siam to New York merchants; Cyrus H. Loutrel, a principal of the largest stationery firm in lower Manhattan and president of the prominent civic organization, the American Institute; and the lawyer, journalist, and German immigrant Friedrich Kapp (who served until his departure for Germany at the end of April 1870). Verplanck, before his death in March, and builder, contractor, and former Almshouse Governor Patrick McElroy were the only Democrats among the appointees, and both were entirely independent of Tammany.[110]

The new Board that took office on May 1 was predictably a different story. Many of the new appointments had experience in public welfare, but the first and foremost criterion was loyalty to Tammany. A later report suggested that the new commissioners had been handpicked by Tweed himself.[111] The only member who served on the boards

[110] Biographical details about the "old" commissioners were culled from obituaries and other newspaper sources: "Frederick S. Winston Dead," *New York Times,* Mar. 29, 1885, p. 7; "Isaac Townsend Smith Dead," *New York Times,* March 31, 1906, p. 7; "Obituary: Cyrus H. Loutrel," New York Tribune, June 17, 1885, p. 5; and "Municipal: The New Almshouse Governor—Patrick McElroy," *New York Times,* Jan. 22, 1858, p. 8.
[111] "The Tammany Emigration Commission," *New York Times,* June 29, 1871, p. 4.

old and new was Richard O'Gorman. As president of the Irish Emigrant Society before the reorganization, he had been an *ex officio* Commissioner. While a respected lawyer, O'Gorman was a Tammany Sachem not adverse to the Ring's dominance. Other high-profile Tammany men appointed were Sachem Isaac Bell, a cotton trader before the war who had also served as an Almshouse Governor; and Sachem Emanuel B. Hart, a merchant who had secured the lucrative post of Surveyor of the Port of New York under Buchanan and had also served on the County Board of Supervisors with Tweed.[112]

James B. Nicholson was perhaps the member of the new Board who garnered the most respect from across the political spectrum. A rare Tammany man later shown not to be associated with the Ring, Nicholson had been Grand Sachem before Tweed's rise, and was well known for having been in the steamboat business before being driven into bankruptcy in competition with Cornelius Vanderbilt. Nicholson had rebuilt his wealth in the dry dock business, and later served as a Commissioner of the Charities and Corrections Department. Less well esteemed appointees were State Assemblyman Alexander Frear, whose involvement with the Ring was deep, and William R. Barr, the general ticket agent of the Erie Railroad, who the mercantile classes viewed as little more than a glorified immigrant runner. Three token Republicans were appointed: German-American hotelier Andreas Willman, German-American stationery importer Willy Wallach, and the State Assemblymen James W. Husted. Husted initially stood against the 1870 overhaul of the Board, but was one of the few Republicans to support the Tweed Charter, signaling his willingness to play ball with the Ring. According to the *Tribune,* his appointment to the Emigration Board looked like a reward for his support of the

[112] "Richard O'Gorman Dead," *New York Times,* March 2, 1895, p. 9; "Isaac Bell Passes Away," *New York Times,* Oct. 1, 1897, p. 7; "The New Excise Commissioner—Emmanuel B. Hart," New York Times, Dec. 29, 1880, p. 8.

charter. Indeed, Husted's lack of scruples would later be confirmed with his implication in contract fraud with a gravel company he set up with Alexander Frear to take over the Central Park Commission gravel contract in 1872.[113]

Each of the new commissioners would serve for five years, after which time the appointive powers would revert to the governor as in the old law. Other than Frear and Husted, most of the other new commissioners did not appear to be personally corrupt, and one of their first acts was widely praised: proposing to lower the commutation fee from $2.50 to $1.50 since the Emigration Board had been operated at a sizeable surplus for several years (even though, as one letter writer to the *Herald* pointed out, it was probably done more for the benefit of shipping and railroad companies—businesses several of the commissioners had stakes in—rather than for that of immigrants).[114] The reduction was put into effect in February 1871. The new commissioners, however, clearly took orders from Tammany and allowed the Ring to transform Castle Garden and other Emigration Board facilities into boodle-generating enterprises. A June 1871 *Times* editorial lamented,

> The entire control of the Board is in the hands of Tammany Sachems, and the whole patronage connected with the business of immigration at this port, is bestowed on Tammany politicians. No railroad is allowed to have a ticket agent at Castle Garden, unless it pays tribute to Tammany Hall in the way of assessments for carrying on political campaigns. All "unassigned" immigrants bound to the West are compelled to go by the Erie Railroad, of which Tweed is a director. No boarding-house keeper is licensed to take immigrants from Castle Garden unless he votes the Tammany ticket, and pays his assessments to the political fund of the Ring.[115]

---

[113] "Obituary: James B. Nicholson," *New York Times,* May 20, 1879, p. 5; "The Tammany Emigration Commission," New York Times, June 29, 1871, p. 4; Willman as a Republican hotelier is mentioned in Iver Bernstein, *The New York City Draft Riots: Their Significance for American Society and Politics in the Age of the Civil War* (New York: Oxford University Press, 1990), p. 298, fn. 127; "Obituary: Willy Wallach," *New York Tribune,* Feb. 13, 1882, p. 5; on Husted's reward: Untitled Editorial, *New York Tribune,* May 10, 1870, p. 2; on Husted's later gravel monopoly with Frear: "Mr. Husted," *New York Times,* Feb. 27, 1872, p. 4.

[114] "Emigration: The Per Capita Tax Question," *New York Herald,* June 6, 1870, p. 5.

[115] "The Tammany Emigration Commission," *New York Times,* June 29, 1871, p. 4.

The writer noted that exclusive contracts for services within Castle Garden had been awarded to firms directly controlled by Tammanyites or their relatives. The rights to sell milk, bread, and other provisions to roughly 250,000 immigrants passing through the Garden each year had been given to a brother of Nicholas Muller, a notorious Tammany hack, former immigrant runner, and agent of the Erie Railroad. Another Muller sibling had been given the steamboat contract to transport pauper immigrants from Castle Garden to Ward's Island. The regime awarded the contract for baggage-handling within the Garden to a company owned by Tammany State Senator Mike Norton. The writer concluded that all of this would be of little consequence if immigrants were being well cared for, but this was simply not the case.[116]

As historians Edwin Burrows and Mike Wallace have argued, the city's wealthier classes tolerated the Tweed Ring as long as it maintained social order. In May 1871, reports of the horrific "Bloody Week" suppression of the Paris Commune rekindled memories of the 1863 Draft Riots and fired up fears of future class-driven unrest. When the march of the Protestant Orangemen on July 12 sparked a brutal riot that killed over sixty people and wounded over 150, the elites' tolerance of Tammany excesses dissipated overnight. (Ironically, Tammany city officials judiciously banned the Orangemen from parading after their 1870 march had turned violent, but pressure from the city's Protestant elites reversed the decision.) The city's mercantile and professional classes were jolted even more forcefully into action after July 29, when the *Times* published a four-page supplement detailing Tammany's fraudulent bookkeeping leaked by a disgruntled Ring member. This revelation in turn threatened the city's good credit rating. By early

[116] Ibid.

September, New York's "best men" established the bipartisan "Committee of Seventy," which set about methodically dismantling the Tweed Ring's power base. The uncovering of definitive proof of contract padding and other fraudulent practices led to Tweed's arrest in October.[117]

The collapse of the Tweed Ring in the fall of 1871 did not immediately lead to the de-Tammanyifcation of the Emigration Board, but it was imminent with the election of substantial Republican majorities to both houses of the state legislature. Several proposals to reform the Board circulated among legislators in January and February 1872. One eliminated the presidents of the German Society and Irish Emigrant Society as *ex officio* members. Another radically restructured the Board so it would consist of commissioners from the counties of New York, Kings, Richmond, and Westchester. Yet another simply replaced the current commissioners with nine new ones.[118] None of these bills gained enough favor to move ahead, especially with Tammany Democrat John T. Hoffman wielding the governor's veto pen.

To gather information for possible reforms, the Assembly Committee on Commerce and Navigation established a new investigation into the management of Castle Garden and collected testimony from the commissioners and their employees, although as the *Tribune* noted, abuses by the current Health Officer at Quarantine, Dr. John Murray Carnochan, were much worse than anything the Board had done. Indeed, the city's merchants cried out for "relief from this leech."[119] During his testimony, Bernard Casserly, the longtime superintendant of Castle Garden who had worked for the

[117] Edwin G. Burrows & Mike Wallace, *Gotham: A History of New York to 1898* (New York: Oxford University Press, 1999), pp. 1002-1012.
[118] "Caring for the Emigrant," *New York Times,* Feb. 28, 1872, p. 2.
[119] "Saving at the Spigot," *New York Tribune,* Jan. 29, 1872, p. 4.

commissioners since 1847, was forthcoming about the Tammany contracts for baggage-carting and money brokers, and noted that his $90,000 annual payroll could be trimmed substantially. Commissioners Emanuel B. Hart, James B. Nicholson, and German Society President Frederick Schaick also testified that they had begun retrenchments of their own accord, with Schaick noting a new meat contract was going into effect that would save the Board $13,450 annually. Several placed blame for the excessive spending on the recently discharged Tammany-appointed purchasing agent for the Board, Charles W. King.[120] The Republican *Times* was quick to point out the irony of U.S. Senator Eugene Casserly, a Democrat from California and brother of the Castle Garden superintendant, being in town at the same time to investigate Republican patronage at the New York Custom House. With tongue firmly in cheek, the writer observed that the Senator Casserly's "honest soul" would compel him to return to New York upon reading his own brother's testimony, "shocked to find that he was for four weeks straining at the Republican gnat in the Custom-house, and failed to see the Democratic camel at Quarantine and Castle Garden."[121]

Within the Board itself two commissioners closely associated with the Tweed Ring—James Husted and Isaac Bell—resigned by the end of February 1872.[122] The movement to reorganize the Board gained momentum in the new Republican-led state legislature over the course of the spring, and in late May at the very end of the legislative session, one of the last acts of the session was for the Conference Committee of the Two Houses to work out the details and pass the bill. A *Times* editorial noted that paper's preference ultimately was for a national immigration bureau, but nonetheless implored

[120] "Legislative Inquiry at Castle Garden," *New York Times,* Feb. 21, 1872, p. 2.
[121] "Hints to a Reformer," *New York Times,* Feb. 22, 1872, p. 4.
[122] Untitled Editorial Article No. 7, *New York Times,* April 10, 1873, p. 4.

Governor Hoffman to sign the bill to take "this vast interest and enormous fund" out of the reach of "doubtful hands."[123] Hoffman, elected by the Ring, refused to sign it. He executed a pocket veto and delayed a legislative overhaul of the Board at least until the next legislative session.

The "Tweed" Emigration Board dispensed with any shred of credibility it may have had with the city's professional and mercantile classes over the fall and winter of 1872-1873. Tensions among the commissioners over facilities for worship at their Ward's Island institutions erupted into a full-blown controversy. Before 1858 both Catholic and Protestant immigrants on the island had attended services at the same small chapel, but in that year, the two sects were granted the use of separate "apartments" within the Board's main hospital building: the Protestants' a spacious room on the second floor, and the Catholics' a cramped quarters on the third (despite their greater numbers on the island). In fall 1871, James Lynch, president of the Irish Emigrant Society and *ex officio* commissioner, proposed appropriating $30,000 for a new chapel for the use of Catholic worshippers. The measure failed after two votes, in part due to the belief among several commissioners that the Board's funds should not be expended to erect building for the exclusive use of "any particular sect," as Republican Commissioner Willy Wallach stated. A compromise succeeded in which $35,000 was appropriated for a "church" with no denominational language attached. Upon the structure's completion in late 1872, however, the island's Catholic chaplain appropriated it as a place of exclusive Catholic worship without the Board's approval. This move made bitter sectarian exchanges a regular feature of the Emigration Board's meetings. The controversy further

[123] "Shall We Have a Reform Emigration Board?," *New York Times,* May 27, 1872, p. 4.

delegitimized an already tainted agency in the eyes of the city's white-collar classes, who were still on edge after the recent sectarian explosions of the Orange Riots.[124]

Republican John A. Dix's electoral victory in the fall of 1872 unseated Hoffman, removing the biggest obstacle to reform. Dix was a renowned Civil War general, railroad executive who served for five years as president of the Union Pacific, and wealthy financier. It was no small irony that Dix had made a killing selling municipal bonds that had enabled the expansion of the Ring's plunder through from the late 1860s through 1871.[125] He was nonetheless eager to sweep the Tweed men off the Board and once again appoint those with experience more in line with the interests of the transportation companies, industrialists, and land developers. A new bill was a certainty in early 1873 as Republicans gained sizeable majorities in both houses of the state legislature. The symbolism of Tweed failing to take his seat in the State Senate despite having been elected to a two-year term in 1871 was widely noted in the press. Tweed was at last standing trial and his empire was crumbling.[126]

The first reform bill that Republicans set forth retained the structure of the Tweed Board, simply replacing the old commissioners with solidly Republican ones. William R. Robertson of Westchester sponsored it in the Senate, while Bernard Biglin of New York simultaneously did so in the Assembly. From all appearances, Republicans were setting up a patronage machine akin to Tammany's. One writer accused several of the men named as commissioners on the bill of being under the sway of the Republican "Custom-house Ring," and that several had served as customs officials. The majority of the eight

[124] "The Emigrant Chapel Question, *New York Times,* May 13, 1872, p. 2; "A Religious Question: The Ward's Island Controversy," *New York Tribune,* July 30, 1872, p. 2.
[125] Beckert, *The Monied Metropolis,* p. 174.
[126] "The State Legislature: Tweed's Empty Chair," *New York Times,* March 5, 1873, p. 4.

commissioners named by the bill were culled from the ranks of relatively obscure Republican political operatives, those who had remained loyal to the party during the 1872 Liberal Republican breakaway movement that had run Horace Greely against Grant in the presidential election. Several of the proposed commissioners were "career" politicians, professional office-seekers who as a class had existed almost exclusively on the Tammany side in previous decades. Others were strivers who had risen from artisanal beginnings to solidly white-collar positions, all the while active in local Republican politics during their careers.[127]

Biglin, the bill's sponsoring assemblyman, typified this new breed of middling Republican politician. An American-born Irish Catholic, he was nonetheless "always a Republican," contradicting ethno-cultural explanations for accounting for political loyalties so vaunted by earlier generations of political historians. Biglin had apprenticed as a brass molder in a chandelier-manufacturing firm, and early on became involved in Republican politics. He and his brother John rose to fame as professional oarsmen, forming a renowned rowing team in an era when competitive sculling was one of the most popular spectator sports. (The Biglin brothers were so well known that famed American painter Thomas Eakins produced a series of canvasses depicting them rowing.)[128] The writers of a brief political biography of Bernard took pains to separate the Biglins from the category of "sporting men" associated with Tammany shoulder-hitters

[127] The list of proposed commissioners is from "Albany: Remodeling the Insurance Department—The Board of Immigration—New-York Police—Education," *New York Times,* January 17, 1873, p. 1. Their backgrounds are culled from newspaper research and other sources (see below for specific cites). The accusations of association with the Customhouse Ring were made in "The Emigrant Bill," *New York Tribune,* March 20, 1873, p. 4.

[128] Martin A. Berger, *Man Made: Thomas Eakins and the Construction of Gilded Age Manhood* (Berkeley: University of California Press, 2000), pp. 20-25.

and prize-fighters "as the phrase is generally understood" since the brothers "never prostitute their rowing abilities to the object of gambling, as is so often the case."[129]

Almost all on the list of proposed commissioners in the Biglin bill were of a similar striving background. Edmund Stephenson had apprenticed as a coach-builder in youth, but then obtained a position as a bank messenger. From there he rose to teller and ultimately to bank president, and was dedicated to Republican politics throughout his career. Likewise, George Starr had risen through the ranks to become president of a small bank on the West Side while also serving on the Board of Aldermen, having been elected on the first Republican slate in the city. Conreid Geib was a German immigrant in the clothing trade who served a term as a Republican state assemblyman in 1872, but then was defeated in a run for a congressional seat. He later found work as a customs inspector, a position he held until his death in 1880.[130]

Two other men on the list, Hugh Gardiner and Solomon Streeter, were likely of middling socio-economic status as well. Both were appointed as salaried "special police justices" in the city later that year after the version of the Emigration Board reform bill to which they were attached failed to move ahead. Despite its august title, special police justice was a prosaic post: a court officer who filled in for one of the nine regular police justices—low-ranking judges empowered to mete out punishment for minor crimes and

[129] "Bernard Biglin" in William H. McElroy and Alex McBride, *Life Sketches of Executive Officers and Members of the Legislature of the State of New York for 1873* (Albany: Weed, Parson & Co., 1873), pp. 147-149.
[130] "Death List of a Day: Edmund Stephenson," *New York Times,* February 26, 1900, p. 7; "Death List of a Day: George Starr," *New York Times,* May 3, 1904, p. 9; "Obituary: Conrad Geib," *New York Tribune,* July 27, 1880, p. 5.

misdemeanors who had been elected to office before the post-Tammany reforms—when the regular justice was unable to perform his duties.[131]

The most prominent man listed on Biglin's bill was Robert L. Case, president of the Security Life Insurance and Annuity Company. Case's façade of bourgeois respectability, however, crumbled just three years later. His under-capitalized firm collapsed in 1876, and Case was found to have perjured himself by signing off on reports to the state insurance commission that falsely represented the health of the company's assets. He was sentenced to five years of hard labor in a state penitentiary despite being nearly sixty years of age.[132]

An editorialist for the conservative *Times* minced no words about how these proposed appointees compared to the pre-Tweed commissioners. These individuals were nowhere near the same stature as a Robert Minturn, Wilson G. Hunt, Abiel A. Low, or Gulian Verplanck, nor did they have the appropriate experience. Men like Geib and Case "may be very worthy and excellent citizens, but they are not distinguished by any special fitness for the task which it is proposed to intrust [sic] to them." Noting that Willy Wallach, the only "Reform" member of the previous two boards, had been omitted from the list, the writer continued, "We do not see upon the Board one man who has any particular acquaintance with emigration or anything especially to do with it," adding:

> There are plenty of gentlemen in this City who have devoted years to the study of this important branch, or who have been connected to it directly through commercial pursuits. Why should they be entirely omitted and a company of comparatively unknown politicians selected to manage so important an interest, is somewhat difficult to understand.

---

[131] Dorman B. Eaton, *Our Police Courts: Speeches of D.B. Eaton on the Bill to Secure Better Administration in the Police Courts of the City of New York* (New York: Council of Political Reform, 1873), pp. 7-10.

[132] "An Insurance Swindle," *New York Times,* December 14, 1876, p. 5; "Five Years in State Prison," *New York Tribune,* November 28, 1877, p. 8.

The writer noted that the task at hand would be enormous, with 300,000 or 400,000 immigrants expected in the coming year, and that the opportunity for corruption would be vast if the Board was left in untrustworthy hands. Furthermore, the author felt that the circumstances on Ward's Island were inexcusable. The recent leadership had lacked the judgment or determination to properly manage the 7,000 to 8,000 people who resided there during the winter season. Several thousand able-bodied men and women on the island were supported at public expense "in almost entire idleness" under the Tweed regime. The island should cease to be a "harbor of ease to emigrants who are too lazy to work or are temporarily unfortunate." All of these complexities demanded that the Board "not be made up among themselves by a small knot of politicians or unknown wire-pullers," but chosen from "our principle merchants and men experienced in charities."[133] It was not inaccurate to state that the proposed commissioners appeared to have even less experience dealing with relevant matters than members of the Tweed Board did.

How can this desire to place middling and obscure commissioners on the Board be explained? Historian Sven Beckert argues that the city's mercantile and financial elites were unprepared to navigate "the new world that resulted from the Civil War," as they still clung to their ideology of paternal stewardship—as the language of the above *Times* editorial seems to affirm—at a time when mass proletarianization made such a position harder to maintain. The Tweed Ring had held off this reckoning by redistributing wealth, especially among artisans and laborers in the building trades, but the Ring's fall began to harden class antagonisms and make the moral leadership of the old elites less credible

[133] "The Proposed Board of Emigration," *New York Times,* January 18, 1873, p. 4.

(especially since they had turned a blind eye and even profited from the Ring's expansion of municipal services and the financing behind it, as had been the case with John Dix).[134]

The depression following the Panic of 1873 exacerbated this dynamic even further, but it is important to note that the unraveling of the last remnants of the city's antebellum political order began well before the Panic. The mainstream Republican party had already looked to new sources of authority and legitimacy, developing a machine-style politics and allowing those who were not the traditional "best men" to take leading roles. This turn led some elites to flee the party in favor of the Liberal Republicans and their civil reform agenda, although that movement's compromise with Southern Democrats in 1872 essentially killed it. Even within the narrow scope of immigration matters, the old mercantile class's claims of expertise began to ring hollow as few American vessels even carried immigrants anymore, with the steerage trade almost entirely in foreign hands. Overall, what constituted a legitimate source of government authority was very much in flux. The elite paternalism of civic republicanism was eroding and populist partisanship had taken a major blow with the Tweed Ring, but a nonpartisan technocratic culture of "expertise"—what political scientist Daniel P. Carpenter has called "bureaucratic autonomy"—had not yet evolved.[135]

At the same time, a movement was afoot once again in Congress to nationalize immigration authority. Legislators from inland states viewed the New York Board as vulnerable in the wake of the Tweed fiasco. Republican Representative Omar D. Conger of Ohio sponsored a bill to create a new federal Bureau of Immigration in January 1873, backed by fellow Republicans Gustavus Finkelnburg of Missouri and Samuel

[134] Beckert, *The Monied Metropolis,* p. 178.
[135] Daniel P. Carpenter, *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862-1928* (Princeton, NJ: Princeton University Press, 2001), pp. 4-6.

Shellabarger of Ohio (the last was best known for authoring the Enforcement Act of 1871—also known as the Ku Klux Klan Act—which granted the president wide powers to combat the Klan and other white supremacist organizations in the South). Both the New York Emigration Board and Chamber of Commerce memorialized against it, finding many of its components highly flawed. An editorialist for the *Tribune* saw it hurting rather than encouraging immigration, helping only "office-seekers, whom it would have provided with numberless fat places, possibly certain railway and land companies whose profits would have swelled." The writer also found the requirement that American consuls inspect every immigrant vessel bound for the US at the point of departure as a "usurpation of the treaty-making power" and an "impertinent interference with the rights of foreign governments."[136]

The New York delegation, led by city Democrats Fernando Wood, Clarkson Nott Potter, and William R. Roberts, led the charge against the bill. Despite a Republican majority of over forty votes in the House, the bill went down to defeat by a wide margin. The failure of nationalization at this juncture must be seen in the context of the federal government's aggressive actions to protect black rights in the South, which was losing northern support. White Southerners, northern Democrats, and those who voted for the Liberal Republican ticket all agreed that federal power had been overextended, and exerted pressure to have the Freedmen's Bureau closed in 1872. The thorough defeat of the Conger bill in the context of the era's anti-federal sentiment may have lulled the commissioners of the Emigration Board into a false sense of security, in part explaining

[136] "Congressional Proceedings," *New York Times,* January 10, 1873, p. 1; "A Federal Immigration Bureau," *New York Tribune,* January 20, 1873, p. 4.

their unpreparedness for the 1876 US Supreme Court decision that essentially rendered the Emigration Board unconstitutional.

Back in Albany the Biglin/Robertson bill failed to move forward as the old-line elitist Republicans seem to have grabbed the momentum away from their party's machine element. A bill proposed by Stephen Pell, a wealthy Republican merchant and assemblyman of prosperous Ninth Ward, gained traction in its place. It restored the pre-Tweed Board but made one small change: it added the president of the municipal Department of Public Charities and Correction as an *ex officio* member.[137] William Robertson, in a rare act of political selflessness, introduced the Pell version over his own bill in the Senate, where it passed. In the Assembly, however, the bill was referred to the Committee on Commerce and Navigation, where opponents altered it by requiring three of the six commissioners be appointed from counties outside New York, Kings, Queens, and Westchester, having the practical effect of killing it. No one could expect individuals to travel long distances for an unremunerated position, leaving the Emigration Board without a functioning quorum. This stalling tactic benefited the Tammany Board, which was able to stay in power longer. One editorialist bristled with impatience. "Castle Garden is a national institution, and should not have merely local keepers. The Commissioners should not be politicians, but men who will act for the mutual benefit of the immigrants and the various States to which they pass. That is the sort of Board we need."[138] Ironically, the city's elites did not want to federalize the agency at this juncture since immigration authority would come under the influence of the same sort of political

[137] The Ninth Ward was essentially what is now considered the West Village. "Stephen Pell" in McElroy & McBride, *Life Sketches of Executive Officers … State of New York for 1873,* pp. 269-270; Untitled Editorial, *New York Times,* January 21, 1873, p. 4.
[138] "The Emigrant Bill," *New York Tribune,* March 20, 1873, p. 4; "The Emigration Bill in the Assembly," *New York Times,* March 25, 1873, p. 4.

spoilsmanship seen in the customhouse, nor did they want it in the hands of local Tammany hacks. They viewed themselves, members of the professional and mercantile classes, as the only citizens capable of envisioning what was best for the nation. The man making the appointments, Governor John Dix, shared their vision, but at the same time, this group no longer wielded the same cross-class influence that it had previously.

The Republicans in the state legislature were at last able to agree upon a bill that restored the pre-Tweed structure to the Emigration Board with only a few small changes in late March, and on April 9, 1873, Governor Dix signed the bill into law.[139] Dix's list of six appointed commissioners consisted of four Republicans and two Democrats, the mirror opposite of the Tweed Board. The majority of the men were independently wealth, as had been the case in the Pre-Tweed era, but there was an significant difference: most had made their fortunes as industrialists, not merchants involved in maritime commerce. The Republicans were Edward Hoppin, Henry A. Hurlbut, Daniel Maujer, and George Starr, who had been named on the earlier Biglin/Robertson bill. After Hoppin declined the position, Dix named Edmund Stephenson, whose name, like Starr's, appeared on the earlier bill. Upon hearing this list, a *Times* editorialist praised that these men "are comparatively unknown in party politics," but are "of high repute in business circles," and certainly "a great improvement upon FREAR, O'GORMAN, and NICHOLSON and other Tammany hacks, who have so mismanaged this important trust…."[140]

Henry Hurlbut was a retired manufacturer of hats who had become wealthy in the early 1850s by making and selling "Kossuth hats," for which there was a craze following the Hungarian revolutionary's visit to New York that persisted through the Civil War.

[139] One notable change was the omission of the Mayor of Brooklyn as an ex officio officer.
[140] Untitled Editorial #2, *New York Times,* May 4, 1873, p. 4.

Hurlbut then leveraged his wealth into directorships and chairmanships at prominent banks and insurance companies. He had only nominal political experience, serving as an elector for Grant in 1872. George Starr made his fortune in the meat business and then moved into banking. He had been more active in Republican politics than Hurlbut, having been elected as Alderman, but he failed to win a bid for a seat in the House of Representatives. Daniel Maujer "attained competency" in the dealing paint, having built a substantial business in Williamsburg, Brooklyn. He was elected to the Brooklyn Board of Aldermen, and also served on that city's Board of Education. Edmund Stephenson, as previously mentioned, rose from a bank messenger to teller to president of a small bank, but was only a small player in the city's Republican scene.[141]

The two appointed Democrats were George W. Quintard, the proprietor of one of the largest iron works in the city and a prominent voice in the rising industrialist class, and curiously, George J. Forrest. Quintard, an independent Democrat, seemed a logical choice, but Forrest was another matter. He had been appointed to the Tweed Board by Governor Hoffman in 1872, and was unique on the new board not only because of his ties old one, but also because of his experience as a transportation executive. He had been a banker and merchant closely associated with Commodore Cornelius K. Garrison, a chief rival of the more famous Commodore Vanderbilt in steamship and railroad lines. Through this connection Forrest became president and director of several steamship companies and rail companies throughout his career. While Forrest did not run for political office, he was active in the Tammany Society during the height of the Tweed

[141] "The Emigration Commission: Gov. Dix Makes the Nominations for the New Board," *New York Times,* May 4, 1873, p. 1; Henry A. Hurlbut Dead," *New York Times,* November 12, 1897, p. 7; "Death List of a Day: George Starr," *New York Times,* May 3, 1904, p. 9; "Obituary: Daniel Maujer," *Brooklyn Eagle,* July 12, 1882, p. 4; "Death List of a Day: Edmund Stephenson," *New York Times,* February 6, 1900, p. 7.

Ring. Independently wealthy by the late 1860s, Forrest probably did not take part in the worst aspects of the Ring. Dix nonetheless delayed announcing Forrest's appointment until well after the other five names in a manner that suggests embarrassment. Forrest was likely the best available of several tainted Democratic options.[142] James Lynch, the president of the Irish Emigrant Society, and his counterpart at the German Society, Sigismund Kaufmann, would also remain on the new Board as ex officio commissioners as previously, although there had been some debate about removing them. Kaufmann was a well-to-do Jewish lawyer who had been an active abolitionist and Republican presidential elector in 1860, was selected by the governor to serve on the draft board in 1863, and was entirely inoffensive to Republican legislators. Lynch, an unrepentant and pugnacious Tammanyite, was another matter. He would continue to fan the flames of sectarian conflict over the issue of the church on Ward's Island, which was still used exclusively by Catholics, and in general used his position to stir up dissension throughout his long tenure. He nonetheless could not be removed without an act of the state legislature because of his *ex officio* status.[143]

That most of the commissioners came from the industrial manufacturing sector marked a significant shift in the politics and economic structure of the city. As historian Sven Beckert argues, industrialists, who had a middling status more akin to tradesmen in

---

[142] "The Emigration Commission: Gov. Dix Makes…," *New York Times,* May 4, 1873, p. 1; "Obituary: George J. Forrest," *New York Tribune,* May 19, 1889, p. 7. As for Forrest's participation in Tammany affairs, his name appears on the committee that planned the celebration of Tammany's new Fourteenth Street building 1867. See Tammany Society, *Proceedings of the Tammany Society, or Columbian Order, on Laying the Corner-Stone of their New Hall in Fourteenth Street* (New York: The New York Printing Company, 1867), p. 8. Later, in 1876, he was elevated to a sachem. See "Proscriptive Tammany," *New York Herald,* April 18, 1876, p. 6.

[143] I.B. Bailin, "Sigismund Kauffman: How a German '48er Became a Brooklyn Political Leader," *Jewish Currents,* Vol. 15, No. 7 (July-August 1961), pp. 20-22; "A Religious Question: The Ward's Island Controversy," *New York Tribune,* July 30, 1873, p. 5; "Criticisms of Commissioner Lynch," *New York Tribune,* March 3, 1882, p. 8.

the antebellum period, moved toward a gradual merger with the old mercantile elite to form a unified bourgeoisie. This process was accelerated during the depression of the 1870s, driven by "proletarianization" of the US workforce and heightened class antagonism.[144] The case of the Emigration Board seems to bear out Beckert's pattern generally, with prominent industrialists taking on positions of civic honor previously occupied for mercantile and professional classes in the 1870s. Some of the older prejudices against industrialists, however, still persisted. They did not bring to bear the same social and political prestige, and their civic leadership was less well tolerated by the laboring and diminished artisan classes. Working people must have been suspicious of industrialists' motivations for serving on the Board especially, as anxieties over immigration lowering wages and newcomers being used to replace striking workers intensified. At the same time, the prestige of the old mercantile elite suffered with death of the American merchant marine. They were no longer a coherent class distinguished by their involvement in one type of economic activity, investing their capital in new industrial endeavors, the growing financial and insurance sectors, and railroads, all of which were viewed with great suspicion by non-elites ongoing national economic woes of the 1870s.

Another factor making the new commissioners less creditable and effective than their predecessors was that few—if any—had ties to the steamship corporations that now dominated the steerage trade. Indeed, few people in the US did. By 1870, foreign-flagged steamship companies carried almost all transatlantic steerage passengers. As before the transition to steam, Liverpool was the point from which most transatlantic steerage passengers departed for New York. Liverpool-based lines carried the bulk of the trade in

[144] Beckert, *The Monied Metropolis,* pp. 323-325.

1870: the Inman Line with over 40,000, the National Line with over 33,000, the Williams & Guion Line with 27,000, and the Cunard with almost 17,000. The proprietors of the Liverpool lines were British, excepting the Williams & Guion Line, which was nominally American (an American-born proprietor had become a British subject). Lines based in other ports, however, were becoming more competitive: Glasgow's Anchor Line conveyed more than 23,000 steerage passengers to New York that year, Bremen's North German Lloyd Line carried almost 23,000, and the Hamburg America Packet Company roughly 19,000.[145]

The change from sail to steam in the steerage trade happened within a decade. An editorialist for the *Times* noted that as late of 1863, the majority of immigrants were still arriving by sail. But by early 1873, "nineteenth-twentieths" arrived by steam. When immigrants did arrive by sail, it was "traceable to some exceptional or anomalous case." Since steam passage cost 30-to-50 percent more, the writer observed that the "great bulk of emigrants" were "far from being in the extreme poverty they are so often represented to be."[146] The speed and longer range of steamships also enabled greater numbers of Southern and Eastern Europeans to embark in ports like Trieste in the Mediterranean, places that would have been too distant for a direct trip in steerage to New York during the age of sail. In this new environment, a New York State agency had little leverage in dealing with far-flung foreign steamship corporations, and the new commissioners lacked the personal ties to the industry that earlier generations had. Commissioners of the Verplanck era were not only leaders in transatlantic commerce, but also prominent

[145] Appendix IV: "Table showing the Name of Steamers Arrived at the Port of New York…" in *Annual Report of the Commissioners of Emigration of the State of New York for the Year Ending December 31, 1870* (New York: The New York Printing Company, 1871), p. 62.
[146] "Immigration and Emigration: How Our Foreign Population Come and Go and Whence They Come," *New York Times,* January 2, 1873, p. 2.

political and social leaders within the city. The bond of personal responsibility for newcomers traveling in the holds of ships owned by leading citizens had been severed.

In the summer of 1873, the new commissioners found the condition of the Emigration Board's finances "cheerless," as one headline expressed it, even after pruning the excess job-holders left over from the Tweed regime. The old commissioners had bequeathed the new ones with a debt of $100,000, largely due to overpaying contractors. The typical dropoff in immigration in July and August immigration would mean that debt would grow larger with revenues being far less than expenses. After being temporarily buoyed by the increase in immigration expected in the fall, the Board would nonetheless be deeply in debt by the winter season. An unnamed commissioner told a *Tribune* reporter that "there was at present need of very extensive repairs in the various buildings, but they could hardly be attempted on account of the condition of the treasury." He further noted that if the legislature did not raise the head tax, the Board would need appropriations from the state legislature or be forced to sell off some of its buildings.[147]

The agency's finances were thus already in a precarious position when the national economy went into freefall in the fall of 1873. Stoked by the railroad boom, it had continued to expand at a breakneck pace in the late 1860s and early 1870s, although the "Black Friday" panic of September 1869—in which financiers Jay Gould and Jim Fisk tried to corner the U.S. gold market but caused it to collapse in the process—gave a brief glimpse of its overextended and unstable underpinnings. The national economy's fragility would be exposed entirely by the chain reaction of bank failures triggered by the failure of Jay Cooke & Company in September 1873. The ripple effect of these events

[147] "The Commissioners of Emigration: Cheerless Condition of Finances," New York Tribune, July 24, 1873, p. 8.

spiraled the economy into a full depression that lingered for the rest of the decade. The crisis led to a corresponding decline in European immigration. By the commissioners' own count almost 295,000 alien passengers had landed in the Port of New York in 1872, with just 30,000 less the following year. But by 1874, the figure had dropped to 140,000, and reached its nadir with just 54,500 in 1877.[148]

This decline translated to fiscal disaster for Emigration Board, especially when coupled with a reduction of the commutation fee from $2.50 to $1.50 in early 1871. The fee reduction not only impoverished the Board, but later revelations about its origins undermined the Board's already troubled reputation. By the summer of 1875, a state investigatory committee discovered that several steamship line executives engineered the decrease with help from Emigration Board officials. Shipping lines intended to keep the extra profit by maintaining the same fares as before even though they had promised the commissioners that they would lower them.[149]

In February 1874, the Joint Committee on Commerce and Navigation of the state legislature took up the matter of raising the commutation fee from $1.50 to $2.00 to ameliorate the Emigration Board's finances. While such appeals to legislature by the commissioners had generally met with success in the past, it fell upon deaf ears at this time. One of the most vociferous testimonies given before the committee was from James Lynch, the Irish Emigrant Society president and *ex officio* commissioner, whose connections with Tammany hurt his credibility. A *New York Times* editorial noted that New York's dominant position in maritime commerce was already vulnerable, being

[148] "Table Showing the Numbers and Nationalities of Alien Passengers Who Arrived at the Port of New York from May 5th, 1847, to January 1st, 1886," *Annual Report of the Commissioners of Emigration of the State of New York, for the Year Ending December 31, 1885* (New York: [s.n.]), pp. 61-63.
[149] "How 'Head Money' Has Been 'Cribbed,'" *Brooklyn Eagle,* July 23, 1875, p. 4.

challenged by Boston, Baltimore, and Philadelphia already on account of their better port facilities and cheaper costs, and that several steamship lines had bolstered their service to those ports (Massachusetts, for example, had dropped its head tax entirely in 1872). Raising the head tax, contrary to what Lynch argued, would drive steamship companies away to an even greater extent. The writer asked that legislative committee members "examine the matter for themselves" and not rely on the advice of the Board, and warned them not to act "until they have consulted the financial report of the present board, and satisfied themselves that they can give a good account of their stewardship."[150] The commissioners kept pressing for an increase throughout the spring, even elevating the proposed fee to $2.50 as the full impact of the economic crisis began to settle in and immigration rates continued to fall. A *Times* editorial in April once again reflected the attitude of the legislature: "The fact is—and all the sophistry in the world will not explain it away—it is to their extravagance alone that the present of the Emigrant Commission are due."[151]

The indebtedness had a grave impact on the Board's effectiveness, and heightened tensions and partisan conflict among the commissioners. Aside from letting infrastructure fall into disrepair, the commissioners had to cut back on important services. In May 1875, they discontinued their upstate offices at Utica, Syracuse, Poughkeepsie, the Suspension Bridge (the railroad bridge crossing into Canada at Niagara Falls), Buffalo, Dunkirk, and Rochester, leaving only the Albany office in operation. They also closed the Labor Exchange, one of their most effective institutions, in June 1875, since they could no

[150] "Obstructing Commerce," *New York Times,* February 7, 1874, p. 4; Aristide R. Zolberg, *A Nation by Design: Immigration Policy in the Fashioning of America* (New York: Russell Sage Foundation, 2006), p. 189.
[151] "A Modest Demand," *New York Times,* April 25, 1874, p. 5.

longer afford the clerks' salaries. Fortunately, the Exchange was saved when the Irish Emigrant Society and the German Society agreed to pay the clerks' salaries out of their own funds.[152] As one commentator observed in early 1876, "An overwhelming debt presses upon the Commission, and not only contracts its usefulness but threatens to stop its work altogether."[153]

Although the Emigration Board's regime would continue to stumble along until its ultimate demise in 1890, the final blow to any hope of it ever again restoring its status as an effective protector of immigrant welfare came on June 24, 1875. The steamship *Ethiopia* of Scotland's Anchor Line anchored in New York after a voyage from Glasgow. Its passengers disembarked on to a steamboat and were taken to Castle Garden as happened with thousands of other ships before it. The ship's master had prepared the passenger list to submit to the New York authorities as required by law, but took careful note of the ultimate destination of each of the passengers on the list. When submitting the payment of the head tax as required as required by state law, the master divided the money into two separate disbursements: one for all of the passengers who intended to stay within the State of New York, and one for those for who were merely passing through it, and paid the latter under protest. He likely did so under the instructions of the line's proprietors, John and Thomas Henderson, who had seen their profits suffer with the downturn in immigration during the economic depression, with the "head money" taking an increasingly bigger piece. The company's attorneys soon filed a suit to recover the funds paid in fees for alien passengers headed for destinations outside of state, claiming a

[152] *Annual Report of the Commissioners of Emigration of the State of New York for the Year Ending December 31, 1875* (New York: Cherouny & Kienle, Printers), pp. 9-10.
[153] Untitled Editorial, *New York Tribune,* Feb. 1, 1876, p. 1

violation of the Commerce Clause, with New York State interfering in both international and interstate commerce. [154]

At the same time, the North German Lloyd Steamship Company headquartered in Bremerhaven was pressing a similar case against the Louisiana Commissioners of Emigration, a state agency founded after the Civil War very much modeled on the New York regime, especially in its use of a bonding and commutation system. The North German Lloyd attorneys took an even more aggressive stance than those of the Anchor Line, looking to have all fees and bonds declared unconstitutional, not just the ones applied to immigrants passing through the state. [155] Both cases rapidly climbed through the federal judiciary to the US Supreme Court, where the two were combined.

Unlike the *Miln* and *Passenger Cases,* the court deliberated with great speed, arguing the cases in January 1876 and handing down a decision on March 26, which was unanimous in striking down the constitutionality of the state laws. It was a relatively straight forward matter since the justices decided to put aside the police power entirely, not deciding if a state had the right to pass laws "strictly limited to defend itself against paupers, convicted criminals, and others of that class." Whether or not the commutation fees were theoretically linked to bonds, they had the same practical effect of taxing foreign commerce, a power clearly delegated to Congress by the Constitution. Justice Samuel Miller, writing for the whole court, affirmed that immigrants should be considered commerce because of their ability to sell labor on the market, and that because

[154] "Care of Immigrants: A Heavy Blow at the State System," *New York Tribune,* March 22, 1876, p. 5.
[155] *Ibid.*

immigration was the result of an international process, regulation needed to be uniform across the states.[156]

Ironically, the court decided the notorious *United States v. Cruikshank* case the following day, which moved against the consolidation of federal power in terms of protecting individual rights. The decision threw out the convictions of several members of the white mob who had participated in the infamous Colfax massacre, during which over 300 freedmen were killed. They had been brought up on federal charges on the grounds that they had violated the Enforcement Act of 1870, which enabled federal charges to be brought against two or more people who conspired to violate a citizen's constitutional rights. The court threw out the charges by deciding that the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment only applied to the actions of states, not to the action of one citizen toward another, essentially eviscerating the protections of the amendment.[157] In essence, state governments were responsible for protecting the rights of their citizens, not the federal government. In a two-day window, the court thus deprived states of a proven mechanism to protect incipient immigrant citizens, and put the burden of protecting the rights of new black citizens back on the states. The outline of a racialized sense of citizenship and the protections it offered was beginning to emerge.

The Board was left without a source of funding, and its operations were thrown into a state of chaos. As of March 21, the shippers ceased paying the commutation fee, leaving the Board no other option but to deny the five-year window of assistance for newcomers. The Board was, however, still liable for those who had come in the previous

[156] Zolberg, *A Nation by Design,* pp. 189-190.
[157] Michael J. Klarman, *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality* (New York: Oxford University Press, 2004), p. 37.

five years, and by May, its funds to provide care and assistance to those in that category were nearly exhausted. The state legislature appropriated $200,000 for the care of those for whom commutation had been paid, but in order to meet its previous obligations, the Board simply refused care of those who arrived after the Supreme Court decision had been rendered, directing them to the municipal authorities. The state legislature, at the end of its session, instructed the commissioners to implore Congress to pass legislation speedily to ameliorate the Emigration Board's untenable situation.[158] As if to punctuate the Board's state of humiliation, in a cosmic Job-like twist the interior of Castle Garden erupted into flames on morning of July 9, 1876 and was gutted. While no one was harmed, the reconstruction costs piled on to the Board's already considerable debt, and the symbolic and functional heart of the regime was left a smoldering ruin.

[158] *Annual Report of the Commissioners of Emigation of the State of New York for the Year Ending December 31st, 1876* (Albany, NY: Jerome B. Parmenter, 1877), p. 8.

EPILOGUE

The swift removal of the Emigration Board's funding in March 1876 by the US Supreme Court essentially destroyed the agency, or at least any hope of it ever restoring its former reputation and effectiveness. Federalization of immigration authority appeared inevitable, but no one in Congress seemed willing to take on the burdensome task of creating a national system. These circumstances resonated with Friedrich Kapp's astonishment that Americans obstinately refused to take the matter of immigration seriously despite its vital importance to the nation. The Emigration Board lingered on for another fourteen years largely because Congress and federal officials took the path of least resistance, with no one caring to muster the considerable political will it would take to initiate serious reform until 1890. For the Port of New York, federalization of immigration authority proceeded through a series of reluctant half-measures.

In the years following the *Henderson* decision, the commissioners harangued Congress continuously, but to little avail. The lobbying of steamship companies and industrialists stymied aggressive federal intervention, both opposing immediate assumption of federal control. Steamship executives had sought to destroy the head tax, but they also had some anxiety about uniform regulations in all ports, losing the ability to play state regimes off of one another. Furthermore, they did not want an immediate federal takeover since several lines were pursuing legal suits against the New York Board to recover commutation fees collected previous to the *Henderson* decision on the grounds that they had been collected unconstitutionally. The Inman Line, for example, sued to recover $1,000,000 in commutation fees that it had paid out over time. This window

closed by 1878, when New York Congressman Samuel Cox was able to pass a bill that legalized state head taxes collected before 1877.[1] But other than that measure, federal help was not forthcoming, which is not surprising during post-Reconstruction retrenchment of expansive federal powers exercised during the Civil War.

In the period between 1877 and 1882, multiple bills were proposed in Congress to nationalize immigration, but none moved forward. In December 1878, the commissioners traveled to Washington to testify in front of a House Committee to comment on two possible nationalization plans: one in which the federal government would take over the entire administration of immigration itself, and another that would divide up an annual appropriation of $250,000 between US ports according to the ratio of arrivals, not counting the Chinese.[2] These bills also lingered and died. Remarkably, Congress's inaction led the New York State legislature to pass another head tax in 1881 despite its the flagrant unconstitutionality, and New York authorities began initiating suits against the steamship lines to recover the fees that they refused to pay. At last in June 1882, the companies agreed to pay a $0.50 head tax on their own accord to support the institutions within Castle Garden and Ward's Island. They acknowledged the necessity of the regime, but were also once again flush with the enormous uptick in immigration since the economy had recovered from the depression.[3]

In 1882, Congress finally broke through its impasse on immigration legislation. First it passed the Chinese Exclusion Act in May, and then it upstaged the New York Board's agreement with the steamship lines passing a new Immigration Act on August 3.

---

[1] Zolberg, *A Nation by Design,* p. 190; "The 'Head-Money' Tax: How the City Will Probably Be Saved Ten Millions," *New York Times,* June 14, 1878, p. 8.
[2] "Who Should Pay for Castle Garden?" *New York Tribune,* December 17, 1878, p. 1.
[3] "Steamship Lines Yield," *New York Tribune,* June 18, 1882, p. 5.

With regard to the head tax, Congress simply nationalized the $0.50 fee that the New York Board had already negotiated. The law also strengthened the new federal immigration regime's ability to deport any alien who was a "convict, lunatic, idiot, or any person unable to take care of him or herself without becoming a public charge." By the following year, the US Treasury Department contracted the commissioners to perform their function under federal mandate. The period of quasi-federal control unquestionably marked a deterioration in the operations of the commissioners; it appears that some of the evils that Castle Garden had been inaugurated to prevent had sneaked back in through its doors. The commissioners of the last decade were less prominent businessmen who were almost all Republican functionaries put in charge of doling out party patronage, an appendage of the patronage machine centered on the customhouse. As of 1882, the most lucrative concessions in Castle Garden were assigned to faithful Republicans: the profitable baggage express business was given to Republican machine politician Barney Biglin, and the restaurant operated by another named John Nugent. An attitude of indifference toward its mission permeated the Board's operations. Castle Garden employees became notorious for their gruff demeanor and lackadaisical performance, allowing a chaotic and sometimes even hostile atmosphere to take hold. American Yiddish commemorated this era of poor management with the term " "kessel garten," meaning a crowded and disorderly place.[4]

In late 1882, the Finance Committee of the State Senate investigated the Emigration Board and amassed reams of damning testimony. Buffalo Democrat Grover Cleveland took office as Governor of New York in January 1883, and was taken aback by

[4] I was made aware of this term in a conversation with the music and baseball writer Dan Esptein, who said that his grandmother, Rachel Epstein (ca. 1910-2011), used it to describe the cafeteria at her nursing home.

the recalcitrance of the existing commissioners over partisan affiliations of new appointments. The conflict generated Cleveland's long-lasting animosity toward the agency. He placed cleaning up the abuses at Castle Garden near the top item of his agenda, initiating a campaign to eventually close the depot. In a message to the State Senate in May 1883, Cleveland urged the passage of a reform bill that would do away with the Board entirely. He did not mince words: "the present management of this very important department is a scandal and a disgrace to civilization." He continued, "The money of the State is apparently expended with no regard for economy; the most disgraceful dissensions prevail among those having the matter in charge. Barefaced jobbery has been permitted, and the poor emigrant, who looks to the institutions for protection, finds that his helplessness and forlorn condition afford the readily seized opportunity for imposition for swindling."[5]

In response, the commissioners issued an open letter to the governor. The commissioners attempted to refute the governor point by point, noting that Cleveland had signed off on several of the bills approving various expenditures, and that the Board would no longer be a burden on the State Treasury going forward since the 1882 Federal Immigration Law would provide the Board with $150,000 a year in federal funds.[6] Despite a Democratic majority in the State Senate, the institution proved harder to kill than Cleveland had hoped, and the bill died when the legislative session ended in late May. But when Cleveland assumed the presidency in 1885, he was able to muster the power of the federal government to dispense with the regime.

[5] New York Commissioners of Emigration, "Open Letter: To His Excellency Grover Cleveland, Governor of the State of New York." New York: May 19, 1883. Pamphlet Collection, Stephen A. Schwartzman Building, New York Public Library.
[6] Ibid.

In the summer of 1887, Daniel Okey, an unflappable official of the US Treasury Department, launched an extensive inquiry into the operations of the Emigration Board. The testimony at these hearings provoked the fury of the powerful publisher of the *New York World,* Joseph Pulitzer. Pulitzer's editorials railed against the injustice of the immigrants being left at the mercy of the "railroad pool" at Castle Garden, who he claimed charged extortionate rates. His campaign did much to generate public momentum in favor of Castle Garden's closure. In addition, most observers could plainly see that the wear-and-tear from the passage of millions of immigrants, along with general neglect, had degraded the sanitary conditions within the fort. A final federal inquiry held at the nearby Barge Office in April 1890 by a Congressional Committee applied the final coup de grace to the old depot. Upon its conclusion, it recommended the immediate assumption of direct federal control, upon which the new administration of Benjamin Harrison acted forthwith.

On April 18, 1890, 465 steerage and second-class passengers from two steamers, the *Bohemia* and the *State of Indiana,* landed their passengers at Castle Garden, and after they were processed, the facility closed its doors. Immigrants were then processed at the nearby Barge Office until the new federal station on Ellis Island opened for business on January 1, 1892. Castle Garden would once again open to the general public on December 10, 1896, as the New York Aquarium, the entire edifice transformed into an aquatic fantasia under the able guidance of architects McKim, Mead & White. The stunning transformation of the building, in addition to the opening of the federal immigration station of Ellis Island aided in the erasure of the former regime from popular memory.

The Emigration Board's long and ignominious decline over the late 1870s and 1880s is partly to blame for its largely forgotten status in the historiography of US immigration and state-building. The first generation of social scientists and historians to take up immigration systematically as a topic, the early twentieth-century Progressives, viewed the Board through the lens of partisan spoils and Tweed and Grant Era political corruption. They undoubtedly viewed it as emblematic of the worst spoilsmanship of the immediate past, best consigned to oblivion.[7] Historians whose work built on that of the Progressives, like Oscar Handlin, took on the admirable mission of reconstructing the experience and mental world of the immigrants themselves, developing a rich vein of social histories of immigration that thrived in the 1970s and 1980s. This focus on the experience of the individual immigrant, however, created blinders toward larger economic and institutional forces that shaped the immigrant's world.

Also contributing to the erasure of the New York State regime in American memory is that since the early twentieth century, Americans generally have conceived of immigration as a federal issue. A string of U.S. Supreme Court cases beginning in the 1890s and culminating in a 1909 decision led to the articulation of the "plenary power doctrine" in which federal jurisdiction over all facets of immigration was determined to be absolute. In his opinion, Justice Edward Douglass White wrote, "Over no conceivable

[7] There are some exceptions to this Progressive-Era inattention to pre-federal state regimes, namely from academics interested in political economy. Thomas W. Page, a professor of economics, contributed three significant articles to the *Journal of Political Economy* between 1911 and 1913: "The Transportation of Immigrants and Reception Arrangements in the Nineteenth Century," *Journal of Political Economy,* Vol. 19, No. 9 (Nov. 1911), pp. 732-749; "Some Economic Aspects of Immigration Before 1870," Part I," *Journal of Political Economy,* Vol. 20, No. 10 (Dec. 1912), pp. 1011-1028; and "Some Economic Aspects of Immigration Before 1870," Part II," *Journal of Political Economy,* Vol. 21, No. 1 (Jan. 1913), pp. 34-55. Edith Abbott, Dean of the Graduate School of Social Services Administration who held a Ph.D. in Economics, compiled *Immigration: Select Documents and Case Records* (Chicago: University of Chicago Press, 1924), a volume gathering many texts relevant to state immigration regimes and New York's especially.

subject is the legislative power of Congress more complete."[8] By moving the basis of federal authority over immigration away from the tangled morass of the Commerce Clause to a more straightforward function of national sovereignty, immigration's status as a strictly federal matter took on the appearance of a concrete certainty, obliterating the slow evolution that actually took place on the local and state level across the nineteenth century. That the federal authority was asserting itself at a time when exclusionary practices were being strengthened cemented the two together in the American mind.

Progressive historians were eager to draw a firm line of demarcation between the Ellis Island regime and the Castle Garden one, but in truth, they shared more similarities than differences. Indeed, the hospital and refuge system and many of the practices used to evaluate physical disabilities were virtually the same. Many of the old politically connected Castle Garden employees, loyal members of the Republican machine, found work at the new Ellis Island Station, at least until the corporate lawyer and Progressive reformer William Williams became Commissioner of Ellis Island in 1902 and cleaned out veteran officials found to be corrupt.[9] The two regimes, however, diverged greatly with regard to the scale of exclusion. Both had mechanisms for deportation, and both justified them with the republican rhetorical stance that chief criterion for citizenship eligibility was self-support. With local authorities in charge of exclusion, however, these judgments were made through case-by-case evaluations and were carried out on a small scale. With the nationalization of citizenship in the wake of the Fourteenth Amendment, legislators and officials turned to broad administrative categories of exclusion, most notably based

[8] *Oceanic Steam Navigation Company vs. Stranahan,* as quoted in Peter Schuck, "The Transformation of Immigration Law," *Columbia Law Review,* Vol. 84 (1984), p. 17.
[9] Alan Kraut, *Silent Travelers: Germs, Genes, and the "Immigrant Menace"* (New York: Basic Books, 1994), pp. 57-58.

on race and ethnicity, as with the Chinese Exclusion Act of 1882, but also based on physical disabilities as per provisions of the 1882 and 1891 Immigration Acts.[10] With the new national regulatory regime and a consolidating sense of national citizenship, the older language used to justify exclusion on grounds of incapacity for self-support was applied to entire racial and ethnic groups and groups of people judged to have certain disabilities. The scale of exclusion became much greater, in part enabled by the consolidation of racial categories within the cauldron of Reconstruction politics and society.

In the 1980s and 1990s, the establishment of the field of American Political Development (APD) and renewed interest in the development of the American state revealed that the modern liberal welfare state associated with the New Deal did have deep antecedents in the supposedly "stateless" nineteenth century. Curiously, the first wave of APD scholars chose to avoid the tangled topic of immigration regulation, letting the illusion that it did not exist in a meaningful way until federalization in 1882 to continue. Yet as "Protecting the Stranger" shows, the building of government authority and capacity over immigration was a long and painstaking process, with the federal regime reaping the benefits of the hard-fought battles of the state agency. The study reveals on a granular level the struggles that Emigration Board officials engaged in to consolidate its authority. "Protecting the Stranger" provides a compelling case study of the problems of wielding government power before the advent of modern administrative law.

The study also provides a new perspective on the transition from a locally administered "associational" citizenship during the antebellum period that was tolerant of

[10] Douglas Baynton, "Defectives in the Land: Disability and American Immigration Policy, 1882-1924," *Journal of American Ethnic History,* Vol. 24, No. 3 (Spring 2005), p. 32.

hierarchies of privilege to a supposedly "modern" concept of individual equality before the law. A rich historiography covers the rocky transition of the formerly enslaved into citizens and government's role (or lack thereof) in that transition. The equivalent transition for immigrants during this time of upheaval is less well understood. Investigating it provides a useful counterpoint to the idea the greater federal power meant better protection of citizenship rights, as the received wisdom about Reconstruction instructs us. Local immigration authority sometimes did have advantages. Local regimes could act more humanely, considering circumstances on a case-by-case basis, especially compared to a centralized bureaucratic regime administering broad exclusionary categories.

Lastly, "Protecting the Stranger" should help to undermine the idea that exclusion is the hallmark of modern immigration control, linked to the idea that the ability to control borders is an essential component of state sovereignty. While the New York regime did not focus on exclusion, it nonetheless was a key step in the development of the authority and administrative capacity that made the later federal regime possible. Rather than filtering and excluding newcomers, the Emigration Board instead focused on aiding and assisting immigrants by constructing a small welfare state that sought to assuage anxieties about newcomers becoming public charges and ease their transition to American life. The study also helps to reframe the conversation about nineteenth-century immigration regulation by bringing in an analytical lens that has largely been missing from recent historical scholarship: political economy. Legislators and government officials did not shape regulations in a vacuum as those who organized and profited from the immigrant trade had great influence over the drafting of pertinent laws. The Board

represented a shift from a passive approach to regulation split between disparate authorities and private organizations, to a more active and centralized approach in an era when private corporations were undergoing a similar transformation.

"Protecting the Stranger" thus provides an important corrective to legal scholar Kerry Abram's assertion that "[m]ost histories of immigration law are histories of restriction."[11] It shares an important intellectual project with Hiroshi Motomuri's *Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States* in that it seeks to recover strands of government regulation and practice outside of the exclusionary paradigm, pointing to models from the American past that supported and aided immigrants.[12] It is my hope that the US can return to such a model in the future.

[11] Abrams, "The Hidden Dimension of Nineteenth-Century Immigration Law," p. 1353.
[12] Hiroshi Motomura, *Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States* (New York: Oxford University Press, 2006).

BIBLIOGRAPHY

Primary Sources

UNPUBLISHED PRIMARY SOURCES

Baker Library, Harvard Business School Library, Boston, Massachusetts

Albany Institute for History and Art
Erastus Corning Papers

Rare Book and Manuscript Library, Butler Library, Columbia University
New York Chamber of Commerce Records

Library of Congress
Hamilton Fish Papers
William H. Seward Papers

National Archives, College Park, Maryland
Record Group # 59: General Records of the Department of State, Records of the Office of the Commissioner of Immigration

New-York Historical Society
William H. Bell Diary, 1850-51
Henry R. Conklin Papers
Gulian C. Verplanck Papers
Thurlow Weed Papers

Municipal Archives of the City of New York, New York
Mayors' Papers

Manuscript Division, New York Public Library, New York, New York
Robert Taylor Diaries, 1846-47

Manuscript and Special Collections, New York State Library
Governors' Papers

Rare Books & Special Collections, Rush Rhees Library, University of Rochester
William H. Seward Papers
Thurlow Weed Papers

NEWSPAPERS AND PERIODICALS

Albany Argus

Albany Atlas

Albany Evening Journal

Albion

Anglo-American

Brooklyn Daily Eagle

Daily National Intelligencer

Evening Post

Freeman's Journal and Catholic Register

Hartford Courant

Harper's Weekly

Merchant's Magazine and Commercial Review

Morning Courier and New-York Enquirer

National Era

National Police Gazette

New York Daily News

New York Evening Post

New York Herald

New York Observer and Chronicle

New York Journal of Commerce

New York Spectator

New York Sun

New York Times

New York Tribune

Niles' National Register

The Subterranean

GOVERNMENT PUBLICATIONS

New York State. *Annual Reports of the Commissioners of Emigration* of the State of New York.

New York State. Assembly of the State Legislature. "Report of the Committee of Investigation into the Affairs of the Commissioners of Emigration and Quarantine," *Documents of the Assembly of the State of New York.* Volume 4, No. 33 (January 28, 1876). Albany: Weed, Parsons & Co., 1876.

PUBLISHED PRIMARY SOURCES

The First Annual Report of the New-York Association for the Improvement of the Poor, for the Year 1845 (New York: John F. Trow, 1845), p. 7.

Hone, Philip. *The Diary of Philp Hone, 1828-1851.* Bayard Tucker, ed. Vol. I & II. New York: Dodd, Mead & Co., 1889.

Hough, Franklin B. *The New York Civil List.* Albany, NY: Weed, Parsons & Co., 1858.

Minturn, Robert Bowne. *Memoir of Robert Bowne Minturn.* New York: Anson D, F. Randolph & Company, 1871.

Strong, George Templeton. The Diary of George Templeton Strong. Vols. I-IV. New York: Macmillan, 1952.

Secondary Works Consulted

AMERICAN POLITICAL DEVELOPMENT, POLITICAL ECONOMY, AND THE HISTORY OF CAPITALISM

Balogh, Brian. *A Government Out of Sight: The Mystery of National Authority in Nineteenth-Century America.* New York: Cambridge University Press, 2009.

Glickstein, Jonathan A. *American Exceptionalism, American Anxiety: Wages, Competition, and Degraded Labor in the Antebellum United States.* Charlottesville, VA: University of Virginia Press, 2002.

Hartog, Hendrik. *Public Property and Private Power: The Corporation of the City of New York in American Law, 1730-1870.* Chapel Hill, NC: University of North Carolina Press, 1983.

Hoffer, Williamjames Hull. *To Enlarge the Machinery of Government: Congressional Debates and the Growth of the American State, 1858-1891.* Baltimore: Johns Hopkins University Press, 2007.

Horwitz, Morton J. *The Transformation of American Law.* Vol. I: 1780-1860. Cambridge, MA: Harvard Unveristy Press, 1977.

_____. *The Transformation of American Law.* Vol. II: 1880-1960. Cambridge, MA: Harvard Unveristy Press, 1977.

Howard, Warren S. *American Slavers and the Federal Law, 1837-1862*. Berkeley, CA: University of California Press, 1963.

John, Richard R. *Spreading the News: The American Postal System from Franklin to Morse.* Cambridge, MA: Harvard University Press, 1995.

_____, ed. *Ruling Passions: Political Economy in Nineteenth-Century America.* University Park, PA: Pennsylvania State University Press, 2006.

Larson, John Lauritz. *Internal Improvement: National Public Works and the Promise of Popular Government in the Early United States.* Chapel Hill, NC: University of North Carolina Press, 2001.

Levy, Jonathan. *Freaks of Fortune: The Emerging World of Capitalism and Risk in America.* Cambridge, MA: Harvard University Press, 2012.

McLennan, Rebecca M. *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776-1941.* New York: Cambridge University Press, 2008.

Novak, William. *The People's Welfare: Law and Regulation in Nineteenth-Century America.* Chapel Hill, NC: University of North Carolina Press, 1996.

Rao, Gautham. "The Creation of the American State: Customhouses, Law, and Commerce in the Age of Revolution." PhD diss., University of Chicago, 2008.

_____. "Cities of Ports: The Warehousing Act of 1846 and the Centralization of American Commerce." *Thresholds: Journal of the MIT Department of Architecture.* Issue 34: Portability (2007), pp. 34-37.

_____. "Sailors' Health and National Wealth: Marine Hospitals in the Early Republic," *Common-Place,* Vol. 9, No. 1 (October 2008), accessed November 13, 2013, http://www.common-place.org/vol-09/no-01/rao/.

Richardson, Heather Cox. *The Greatest Nation of the Earth: Republican Economic Policies during the Civil War.* Cambridge, MA: Harvard University Press, 1997.

Steinfeld, Robert J. *The Invention of Free Labor: The Employment Relation in English & American Law and Culture, 1350-1870.* Chapel Hill, NC: University of North Carolina Press, 1991.

NEW YORK HISTORY: POLITICAL, ECONOMIC, AND CULTURAL

Alexander, DeAlva Stanwood. *A Political History of the State of New York.* Vol. II: 1833-1861. New York: Henry Holt & Co., 1906.

Anbinder, Tyler. *Nativism and Slavery: The Northern Know-Nothings and the Politics of the 1850s.* New York: Oxford University Press, 1992.

_____. "'Boss' Tweed: Nativist," *Journal of the Early Republic.* Vol. 15, No. 1 (Spring 1995), pp. 109-116.

_____. "Isaiah Rynders and the Ironies of Popular Democracy in Antebellum New York." In Manisha Sinha and Penny Von Eschen, eds. *Contested Democracy: Freedom, Race, and Power in American History.* New York: Columbia University Press, 2007.

Beckert, Sven. *The Monied Metropolis: New York City and the Consolidation of the American Bourgeoisie, 1850-1896.* New York: Cambridge University Press, 2001.

Bender, Thomas. *New York Intellect: A History of Intellectual Life in New York City, from 1750 to the Beginnings of Our Own Time.* Baltimore, MD: Johns Hopkins University Press, 1987.

Bernstein, Iver. *The New York City Draft Riots: Their Significance for American Society and Politics in the Age of the Civil War.* New York: Oxford University Press, 1990.

Bridges, Amy. *A City in the Republic: Antebellum New York and the Origins of Machine Politics.* New York: Cambridge University Press, 1984.

Burrow, Edwin and Mike Wallace. *Gotham: A History of New York City to 1898.* New York: Oxford University Press, 1999.

Donovan, Herbert Darius Augustine. *The Barnburners: A Study of the Internal Movements in the Political History of New York State and of Resulting Changes in Political Affiliation, 1830-1852.* New York: New York University Press, 1925.

Ernst, Robert. *Immigrant Life in New York City, 1825-63.* New York: King's Crown Press, 1949.

Furer, Howard B. *William Frederick Havemeyer: A Political Biography.* New York: American Press, 1965.

Garraty, John Arthur. *Silas Wright.* New York: Columbia University Press, 1949.

Gunn, L. Ray. *The Decline in Authority: Public Economic Policy and Political Development in New York, 1800-1860.* Ithaca, NY: Cornell University Press, 1988.

Hulseboch, Daniel J. *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664-1830.* Chapel Hill, NC: University of North Carolina Press, 2005.

Huston, Reeve. *Land and Freedom: Rural Society, Popular Protest, and Party Politics in Antebellum New York.* New York: Oxford University Press, 2000.

July, Robert W. *The Essential New Yorker: Gulian Crommelin Verplanck.* Durham, NC: Duke University Press, 1951.

Kessner, Thomas. *Capital City: New York City and the Men Behind America's Rise to Economic Dominance, 1860-1900.* New York: Simon & Schuster, 2003.

Klein, Milton M., ed. *The Empire State: A History of New York.* Cooperstown, NY: New York State Historical Association, 2001.

Leach, Richard H. "The Impact of Immigration upon New York, 1840-1860." *New York History.* Vol. 31, No. 1 (January 1950), pp. 15-30.

McCurdy, Charles W. *The Anti-Rent Era in New York Law and Politics.* Chapel Hill, NC: University of North Carolina Press, 2001.

Mohr, James C. *The Radical Republicans and Reform in New York during Reconstruction.* Ithaca, NY: Cornell University Press, 1973.

Mushkat, Jerome. *Tammany: The Evolution of a Political Machine, 1789-1865.* Syracuse, NY: Syracuse University Press, 1971.

_____. *The Reconstruction of the New York Democracy, 1861-1874.* Hackensack, NJ: Fairleigh Dickinson University Press, 1981.

_____. *Fernando Wood: A Political Biography.* Kent, OH: Kent State University, 1990.

Myers, Gustavus. *The History of Tammany Hall.* 2nd Edition. New York: Boni & Liveright, 1917.

Neu, Irene D. *Erastus Corning: Merchant and Financier, 1794-1872.* Ithaca, NY: Cornell University Press, 1960.

Penczak, William and Conrad Edick Wrights, eds. *New York and the Rise of American Capitalism: Economic Development and the Social and Political History of an American State.* New York: New-York Historical Society, 1989.

Quigley, David. *Second Founding: New York City, Reconstruction, and the Making of American Democracy.* New York: Hill & Wang, 2004.

Rosenzweig, Roy & Elizabeth Blackmar. *The Park and the People: A History of Central Park.* Ithaca, NY: Cornell University Press, 1992.

Scobey, David M. *Empire City: The Making and Meaning of the New York City Landscape.* Philadelphia, PA: Temple University Press, 2002.

Sheriff, Carol. *The Artificial River: The Erie Canal and the Paradox of Progress, 1817-1862.* New York: Hill & Wang, 1996.

Spann, Edward K. *Ideals & Politics: New York Intellectuals and Liberal Democracy, 1820-1860.* Albany, NY: State University of New York Press, 1972.

_____. *The New Metropolis: New York City, 1840-1857.* New York: Columbia University Press, 1981.

_____. *Gotham at War: New York City, 1860-1865.* Lanham, MD: Rowman & Littlefield, 2002.

Stebbins, Homer Adolph. *A Political History of the State of New York, 1865-1869.* New York: Longmans, Green & Co., 1913.

Stiles, T.J. *The First Tycoon: The Epic Life of Cornelius Vanderbilt.* New York: Knopf, 2009.

Stott, Richard B. *Workers in the Metropolis: Class, Ethnicity, and Youth in Antebellum New York City.* Ithaca, NY: Cornell University Press, 1990.

Van Deusen, Glyndon G. *Thurlow Weed: Wizard of the Lobby.* Boston: Little, Brown, 1947.

Wilentz, Sean. *Chants Democratic: New York City and the Rise of the American Working Class, 1788-1850.* New York: Oxford University Press, 1984.

Wilson, James Grant, ed. *The Memorial History of the City of New-York: From Its First Settlement to the Year 1892,* Vol. III. New York: New York History Company, 1893.

HISTORY & THEORY OF CITIZENSHIP AND THE HISTORY OF IMMIGRATION POLICY & LAW

Aarim-Heriot, Najia. *Chinese Immigrants, African Americans, and Racial Anxiety in the United States, 1848-82.* Urbana, IL: University of Illinois Press, 2003.

Baseler, Marilyn C. *"Asylum for Mankind": America, 1607-1800.* Ithaca, NY: Cornell University Press, 1998.

Behdad, Ali. *A Forgetful Nation: On Immigration and Cultural Identity in the United States.* Durham, NC: Duke University Press, 2005.

Bildner, Mary Sarah. "Struggle over Immigration: Indentured Servants, Slaves, and Articles of Commerce," *Missouri Law Review.* Vol. 61, Issue 4 (Fall 1996), pp. 743-824.

Bosniak, Linda. *The Citizen and the Alien: Dilemmas of Contemporary Membership.* Princeton, NJ: Princeton University Press, 2006.

Brubaker, William Rogers, ed. *Immigration and the Politics of Citizenship in Europe and North America.* Lanham, MD: University Press of America, 1989.

Cannato, Vincent. *American Passage: The History of Ellis Island.* New York: HarperCollins, 2009.

Fitzgerald, Keith. *The Face of the Nation: Immigration, the State, and the National Identity.* Stanford, CA: Stanford University Press, 1996.

Hirota, Hideki. "Nativism, Citizenship, and the Deportation of Paupers in Massachusetts, 1837-1883." PhD dissertation, Boston College, 2012.

____. "The Great Entrepot for Mendicants": Foreign Poverty and Immigration Control in New York State to 1882," *Journal of American Ethnic History,* Vol. 33, No. 2 (Winter 2014), pp. 5-32.

Honig, Bonnie. *Democracy and the Foreigner.* Princeton University Press, 2001.

Huebner, Timothy S. *The Taney Court: Justices, Rulings, and Legacy.* Santa Barbara, CA: ABC-CLIO, 2003.

Jopke, Christian. *Citizenship and Immigration.* Malden, MA: Polity Press, 2010.

Kettner, James H. *The Development of American Citizenship, 1608-1870.* Chapel Hill, NC: University of North Carolina Press for the Institute of Early American History and Culture, 1978.

Law, Anna O. "Lunatics, Idiots, Paupers, and Negro Seamen—Immigration Federalism and the Early American State." *Studies in American Political Development,* Vol. 28 (October 2014),

Motomura, Hiroshi. *Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States*.

Neumann, Gerald L. *Strangers to the Constitution: Immigrants, Borders, and Fundamental Law. Princeton,* NJ: Princeton University Press, 1996.

_____. "The Lost Century of American Immigration Law (1776-1875)," *Columbia Law Review,* Vol. 93, No. 8 (Dec. 1993), pp. 1833-1901.

Ngai, Mae M. *Impossible Subjects: Illegal Aliens and the Making of Modern America.* Princeton, NJ: Princeton University Press, 2004.

Parker, Kunal M. "Citizenship and Immigration Law, 1800-1924." *Cambridge History of Law in America* ed. by Michael Grossberg and Christopher Tomlins. New York: Cambridge University Press, 2008. pp. 168-203.

Pocock, J.G.A. *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition.* Princeton, NJ: Princeton University Press, 1975.

Schneider, Dorothee. *Crossing Borders: Migration and Citizenship in the Twentieth-Century United States.* Cambridge, MA: Harvard University Press, 2011.

Smith, Rogers M. *Civic Ideals: Conflicting Visions of Citizenship in U.S. History.* New Haven, CT: Yale University Press, 1997.

Zolberg, Aristide. *A Nation by Design: Immigration Policy in the Fashioning of America.* New York: Russell Sage Foundation, 2006.

SOCIAL HISTORIES OF U.S. IMMIGRATION

Bergquist, James M. *Daily Life in Immigrant America, 1820-1870: How the First Great Wave of Immigrants Made Their Way in America,* Rev. Ed. Chicago: Ivan R. Dee, 2009.

Coleman, Terry. *Going to America.* New York: Pantheon Books, 1972.

Erickson, Charlotte. *Invisible Immigrants: The Adaptation of English and Scottish Immigrants in Nineteenth-Century America.* London: Weidenfeld & Nicholson, 1972.

Hansen, Marcus. *The Atlantic Migration, 1607–1860: A History of the Continuing Settlement of the United States.* Cambridge, MA: Harvard University Press, 1940.

Taylor, Philip A.M. *The Distant Magnet: European Emigration to the U.S.A.* New York: Harper & Row, 1971.

Thistlewaite, Frank. "Migration from Europe Overseas in the Nineteenth and Twentieth Centuries," reprinted in *Population Movements in Modern European History.* Herbert Moller, ed. New York: Macmillan, 1964.

Wittke, Carl. *We Who Built America: The Saga of the Immigrant.* 1939. Reprint, Cleveland, OH: Press of Western Reserve University, 1964.

Wokeck, Marianne Sophia. *Trade in Strangers: The Beginnings of Mass Migration to North America.* University Park, PA: Pennsylvania State University Press, 1999.

Wust, *Klaus. Guardian on the Hudson: The German Society of New York, 1784-1984*. New York: The German Society of New York, 1984.

GLOBAL MIGRATION HISTORY & THEORY

Friedland, Klaus, ed. *Maritime Aspects of Migration.* Cologne: Böhlau Verlag, 1989.

Gabaccia, Donna R. and Dirk Hoerder. *Connecting Seas and Connected Ocean Rims: Indian, Atlantic, and Pacific Oceans and China Seas Migrations from the 1830s to the 1930s.* Boston: Brill, 2011.

Hitchins, Fred H. *The Colonial Land and Emigration Commission.* Philadelphia: University of Pennsylvania Press, 1931.

Hobsbawm, Eric. *The Age of Capital, 1848-1875.* London: Weidenfeld & Nicholson, 1975.

McKeown, Adam M. *Melancholy Order: Asian Migration and the Globalization of Borders.* New York: Columbia University Press, 2008.

PUBLIC HEALTH & WELFARE HISTORY

Duffy, John. *A History of Public Health in New York City,* Vol. I: 1625-1866. New York: Russell Sage Foundation, 1968.

_____. *A History of Public Health in New York City,* Vol. II: 1866-1966. New York: Russell Sage Foundation, 1974.

Handel, Gerald. *Social Welfare in Western Society.* New York: Random House, 1982.

Kraut, Alan M. *Silent Travelers: Germs, Genes, and the "Immigrant Menace."* New York: Basic Books, 1994.

Rosner, David, ed. *Hives of Sickness: Public Health and Epidemics in New York City.* New Brunswick, NJ: Rutgers University Press for the Museum of the City of New York, 1995.

Schneider, David M. *History of Public Welfare in New York State.* Vols. 1 & 2 Chicago: University of Chicago Press, 1938; 1941.

SenGupta, Gunja. *From Slavery to Poverty: The Racial Origins of Welfare in New York, 1840-1918*. New York: New York University Press, 2009.

Stephenson, Kathryn. "The Quarantine War: The Burning of the New York Marine Hospital in 1858," *Public Health Chronicles,* Vol. 119 (January-February 2004). pp. 79-119.

TRANSPORTATION HISTORY

Albion, Robert G. *Square-Riggers on Schedule: The New York Sailing Packets to England, France, and the Cotton Ports.* Princeton, NJ: Princeton University Press, 1938.

_____. *The Rise of New York Port, 1815-1860.* New York: Charles Scribner's Sons, 1939.

_____. "Early Nineteenth-Century Shipowning—A Chapter in Business Enterprise." *Journal of Economic History.* Volume I, No. 1 (May 1941), pp. 1-11.

Condit, Carl W. *The Port of New York: A History of the Rail and Terminal System from the Beginnings to Pennsylvania Station.* Chicago: University of Chicago Press, 1980.

Cutler, Carl C. *Queens of the Western Ocean: The Story of America's Mail and Passenger Sailing Lines.* Annapolis, MD: U.S. Naval Institute, 1961.

Dunlavy, Colleen A. Dunleavy. *Politics and Industrialization: Early Railroads in the United States and Prussia.* Princeton, NJ: Princeton University Press, 1994.

Fox, Stephen. *Transatlantic: Samuel Cunard, Isambard Brunel, and the Great Atlantic Steamships*. New York: HarperCollins, 2003.

Pierce, Harry H. *Railroads of New York: A Study of Government Aid, 1826-1875.* Cambridge, MA: Harvard University Press, 1953.

Stiles, T.J. *The First Tycoon: The Epic Life of Cornelius Vanderbilt.* New York: Knopf, 2009.

Taylor, George Rogers. *The Transportation Revolution, 1815-1860.* New York: Rinehart and Co., 1951.

City University of New York (CUNY)
CUNY Academic Works

Dissertations, Theses, and Capstone Projects | CUNY Graduate Center

5-2015

Protecting the Stranger: The Origins of US Immigration Regulation in Nineteenth-Century New York

Brendan P. O'Malley
CUNY Graduate Center

How does access to this work benefit you? Let us know!

More information about this work at: https://academicworks.cuny.edu/gc_etds/1079
Discover additional works at: https://academicworks.cuny.edu

This work is made publicly available by the City University of New York (CUNY).
Contact: AcademicWorks@cuny.edu